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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
21

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

**SUPPLEMENTAL DECLARATION
OF THOMAS A. SEAMAN IN
SUPPORT OF OBJECTIONS TO
TRADE CREDITOR, EMPLOYEE
AND NOTEHOLDER CLAIMS**

Date: March 12, 2011
Time: 8:30 a.m.
Ctm: 9D
Judge: Hon. David O. Carter

1 I, Thomas A. Seaman, declare:

2 1. I am the duly Court-appointed receiver for Medical Capital
3 Holdings, Inc., Medical Capital Corporation, Medical Provider Funding
4 Corporation VI, and their subsidiaries and affiliates. I have personal knowledge of
5 the facts stated herein, and if called upon to do so, I could and would personally and
6 competently testify to them.

7 **NOTEHOLDER CLAIM ISSUES:**

8 2. Between February 25 and March 1, 2011, I caused caused Claim
9 Information Forms to be mailed to all Medical Capital Noteholders at the address
10 maintained in our records. Approximately 11,200 forms were mailed out. Over
11 7,345 Noteholders returned those forms indicating that they agreed with claim
12 information provided by my office. Approximately 3,151 Noteholders did not
13 respond or return their Claim Information Form. Of those, only 710 would have a
14 positive claim amount. Those Noteholders who did not respond were nevertheless
15 included in the database of undisputed Noteholders as they had failed to dispute the
16 amounts indicated in the form. I intend to include these Noteholders with positive
17 claim amounts in distributions. Thus, any claims filed on behalf of Noteholders by
18 Wells Fargo, as trustee, would be duplicative of the claims my staff is already
19 processing. Additional Claim Information Forms were received after the bar date.
20 To the extent that the late-filed forms agreed with our numbers they were added to
21 the database for agreed claim amounts. To the extent that they did not agree with
22 our numbers they were added to the contested claim database and we have
23 endeavored to resolve the differences.

24 3. Approximately 704 Noteholders disputed the principal and interest set
25 out in the Claim Information Forms. To date, my staff has resolved 351 disputes,
26 and reached agreed upon claim amounts. Attached as Exhibit A, is a spreadsheet
27 reflecting the names and claim amounts of Noteholders whose claims have been
28

1 resolved. The claims are in addition to the agreed claims previously filed with the
2 Court as an exhibit to the Omnibus Objection. (Dkt. No. 601)

3 4. About 404 Noteholders remain who may dispute some aspect of their
4 claim. Of those, 262 have not responded to additional information we have
5 provided. Another, 40 of these Noteholders have responded but have not provided
6 any or sufficient evidence to refute the information we have provided. Both of these
7 groups of Noteholders are listed in Exhibit B attached hereto. I believe that a
8 significant portion of those who have failed to respond or refuse to concede that they
9 received certain payments are doing so because they do not agree with a MIMO
10 calculation approach. I also believe that if the Court approves of the MIMO claim
11 calculation approach, that it can and should rule on the allowed claim amount of
12 these Noteholders as listed in Exhibit B.

13 5. Finally, there are approximately 102 Noteholders for which an actual
14 evidentiary dispute exists about their interest or principal payments, or with whom
15 my staff is continuing productive discussions. These Noteholders are indentified on
16 Exhibit C attached hereto. I believe many of the Exhibit C Noteholders may be
17 resolved with further discussion, and some may simply need to be resolved by the
18 Court.

19 6. As to those Noteholders who, after further discussions, continue to
20 dispute their claim calculation, I propose that we submit a report to the Court by
21 May 11, 2012. The report will identify all Noteholders in this category, as well as
22 the number and nature of the remaining disputes. I propose that if the Noteholder so
23 stipulates, the Court, a Magistrate Judge or a Special Master will determine the
24 allowed claim amount based on the pleadings submitted by such Noteholder and my
25 attorneys; if the Noteholder does not so stipulate, and insists on the opportunity to
26 be heard by the Court, a hearing will be set before the Court, a Magistrate Judge or a
27 Special Master to determine such claim disputes.

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1 **TRADE CREDITOR CLAIM ISSUES:**

2 7. Attached hereto as Exhibit D is a spreadsheet listing all trade creditor
3 claims and my proposed allowed amount for each claim. The spreadsheet also
4 reflects which trade creditors submitted a response to my objection and whether I
5 have adjusted my proposed allowed amount for their claims.

6 **ABM, FEG and Inamax**

7 8. On August 5, 2009, through my counsel, I caused the Court's
8 Temporary Restraining Order and the Complaint filed by the Securities and
9 Exchange Commission to be filed in the United States District Court for the
10 Northern District of Georgia. True and correct copies of the first pages of the
11 Temporary Restraining Order and Complaint, reflecting the file stamp and the
12 miscellaneous case number assigned by the Northern District of Georgia, are
13 attached hereto as Exhibit E.

14 **EMPLOYEE CLAIM ISSUES:**

15 9. Attached hereto as Exhibit F is a spreadsheet listing all employee
16 claims and my proposed allowed amount for each claim. The spreadsheet also
17 reflects which employees submitted a response to my objection and whether I have
18 adjusted my proposed allowed amount for their claims.

19 **Alan Meister**

20 10. I have reviewed Alan Meister's response to my objection to his claim.
21 Meister's very narrow characterization of his role, responsibilities and access to
22 information at Medical Capital is not credible. Meister's testimony during the
23 Securities and Exchange Commission's investigation, communications with those
24 running Medical Capital, including Joseph Lampariello, as well as documents
25 Meister signed, show that he had a central role in the financial management of the
26 companies.

27 11. Attached hereto as Exhibits G, H, and I respectively are an excerpt
28 from Meister's testimony during the SEC's investigation, e-mail communications

1 between Meister and other officers at Medical Capital, and examples of requests for
2 administrative fees signed by Meister.

3 12. Meister oversaw preparation of Medical Capital's daily cash report, and
4 therefore was aware of the cash coming in and going out of each MPFC, including
5 amounts advanced to and collected from each borrower, as well as the total principal
6 owed on investor notes. See Exhibit G (transcript, pp. 12-16).

7 13. Meister also signed requests for administrative fees that went to the
8 Wells Fargo Bank and Bank of New York Mellon. Exhibit I. In the requests,
9 Meister represented that the Collateral Coverage Ratio, i.e. the value of the
10 collateral in relation to the principal owed on investor notes, was at least 1:1. These
11 requests resulted in millions of dollars in administrative fees being released to
12 Medical Capital at times when the daily cash report for the relevant MPFCs showed
13 that there were little or no collections on the millions of dollars of accounts
14 receivable purportedly in the MPFCs.

15 14. Meister either knew, or easily could have determined based on
16 information in the daily cash reports and other information available to him, that the
17 representations regarding the Collateral Coverage Ratio were false. These false
18 representations enabled Medical Capital to withdraw hundreds of millions of dollars
19 in improper administrative fees. These fees directly benefitted Meister and others at
20 Medical Capital, whose large salaries and bonuses were paid from administrative
21 fees, at the direct expense of noteholders.

22 15. Meister argues that auditors never found any "exceptions to GAAP" in
23 the consolidated MCH financials. The financials, however, were never actually
24 audited. The outside accountants at Mayer Hoffman McCann only performed
25 "reviews" of the financial statements. In a review, the outside accountants base their
26 financial statements on management representations, without verification. Here, as
27 CFO, Meister was principally responsible for providing the information reviewed by
28 outside accountants. Therefore, it is both ironic and circular, that Meister would

1 argue that the fact that outside accountants never found any exceptions to GAAP is a
2 defense to the equitable subordination of his claim. Moreover, in February 2009,
3 Mayer Hoffman McCann withdrew from its engagement by MCH because MCH did
4 not "fit into the[ir] risk profile." Attached hereto as Exhibit J is the withdrawal letter
5 from Mayer Hoffman McCann.

6 **William Noll**

7 16. My counsel and I have considered the response to by claim objection
8 submitted by William Noll, further investigated Noll's responsibilities and activities
9 while at Medical Capital, and questioned a former Medical Capital employees
10 familiar with Noll's role in the company. Based on this additional investigation, and
11 despite his role as an officer, it does not appear Noll had knowledge of, or access to,
12 information that would have indicated misrepresentations to noteholders or other
13 wrongdoing by Medical Capital.

14 17. However, I object to certain portions of Noll's claim. Specifically,
15 \$24,276 of the claim is for bonuses. Considering that some noteholders are facing
16 the loss of the majority of their life savings, claims for employee bonuses should be
17 either disallowed entirely or subordinated to all other claims. In addition, \$34,857
18 of the claim is for 428 hours of accrued vacation. The Receivership Entities' books
19 and records show that Noll is owed \$54,025.53 for wages, accrued vacation and
20 401(k) contributions, rather than \$57,675.66 as Noll claims. Accordingly, the
21 Receiver proposes that Noll's claim be allowed in the amount of \$54,025.53.

22 I declare under penalty of perjury under the laws of the State of California
23 that the foregoing is true and correct.

24 Executed this 27th day of February, 2012, at Irvine, California.

25 

26 _____
27 THOMAS A. SEAMAN
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