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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

Case No. SA CV09-0818 DOC (RNBx)

RECEIVER'S THIRTY-FOURTH
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
25
26
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1 "Receivership Entities"), submits herewith the Receiver's Thirty-Fourth Report to
2 the Court.

3 Dated: May 10, 2012

ALLEN MATKINS LECK GAMBLE
MALLORY & NATSIS LLP

By: */s/ Michael R. Farrell*

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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-FOURTH REPORT
For the Honorable David O. Carter

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- Exhibit B – Financial Statements for the Receivership Estate through April 30, 2012

I. INTRODUCTION

This thirty-fourth 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 10th 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, and litigation to recover funds for the benefit of the receivership estate.

In addition to the Receiver's efforts to recover funds for the estate, significant effort was also made reconciling, objecting to and resolving note holder, trade creditor, employee and other claims. With the amounts of claims to be established soon, the Receiver will be filing a proposed plan of distribution within the month.

The Receiver's actions more specifically include the following:

- During April, 2012, the Receiver collected \$382,137.50. Notable among April, 2012 collections were \$10,500 in accounts receivable payments, \$18,083.33 in loan collections, and NHBC revenue of \$353,078.04. Since the inception of the case through April 30, 2012, the Receiver has collected \$138,296,307.29, which is comprised of the following sources:

○ Accounts Receivable collections	\$ 2,264,732.87
○ Loan payments	\$ 10,021,318.25
○ NHBC revenue	\$ 17,917,073.55
○ Viva Vision Revenue	\$ 1,147,361.49
○ Perfect Game revenue	\$ 705,969.23
○ Insurance proceeds	\$ 201,404.38
○ Rental income	\$ 561,519.34
○ Asset sales	\$ 98,711,757.95
○ Settlement proceeds	\$ 691,572.50
○ Turnover /seizure of bank accounts	\$ 4,247,124.13

○	Income tax returns	\$ 1,628,782.53
○	Property tax refunds	\$ 83,279.77
○	Interest income	\$ 114,411.30

- 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 Receivership Entities have a security interest in the form of notes secured in part by the former Parkway Hospital in Queens, New York. The Receiver sought authority to sell the notes for \$6.2 million, subject to Court approval and overbid. An over bidder bid \$6.5 million and was selected as the purchaser. The sale closed on May 8, 2012 and the remaining proceeds of approximately \$5.39 million have been received and will be reflected in the May, 2012 accounting.
- 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 were entered into and the Receiver caused complaints against the Trustees to be prepared. The Receiver then invited the Trustees to pre-litigation settlement discussions wherein the Receiver provided the substance of his alleged damages. These discussions lead to mediation conferences in which the Receiver reached agreements in principal for conditional settlements with the Wells Fargo Bank for \$49,000,000 and Bank of New York Mellon for \$57,000,000, for a total of \$106,000,000. The settlement is being documented and Court approval will be sought in the near future.
- 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. The Receiver conferred with opposing counsel in preparation for the scheduling conference with the Court on May 7, 2012. The Court continued the scheduling conference to August 27, 2012.

- 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. Defendant's motion to remove the Receiver's counsel was granted and the Receiver is considering successor counsel.
- 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 \$1,628,782.53 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. The IRS revenue officer and field agents assigned to the amended returns have completed their onsite work and are expected to approve the amended returns and submit them to a congressional review committee whose approval is required for all tax refunds in excess of \$2,000,000 and who will need approximately one year to review the amended returns and approve payment of the refunds.
- The Receiver has entered into a letter of intent for the sale of the assets of NHBC. The Receiver has engaged in negotiations on a Purchase and Sale Agreement, which will include overbid procedures and the condition of Court approval, which should be completed in the near future. In the mean time, operations of the company are stable and generating cash flow.
- The claims process is nearing completion. The Receiver compiled and reconciled investor, employee and creditor claims. Approximately 11,200 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 was 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 evaluated the documents received and prepared further responses which were filed on February 27, 2012. Per the

Court's order, the Receiver also filed a report for the Court on February 20, 2012 summarizing the note holder submissions. The Receiver and counsel participated in a hearing before the Court on March 12, 2012, at which the Court resolved various claim disputes and set a further hearing on May 11, 2012 to resolve any remaining claim disputes. During March and April, 2012, a significant number of disputed claims have been resolved. The Receiver is still working to resolve the remaining disputed claims and has proposed final claim in advance of the May 11, 2012 hearing.

- 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-Fourth 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.

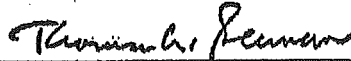
IV. RECEIVER'S ACCOUNTING AS OF APRIL 30, 2012

Exhibit B provides financial statements for the receivership estate through April 30, 2012. An Income and Expense Statement, Balance Sheet and General Ledger are provided. To date, the estate has received funds in the amount of \$138,296,307.29, including interest income of \$114,411.30. The Receiver has disbursed funds in the amount of \$38,435,348.44 for operating expenses of the Receivership Entities and administering the receivership estate. The Receiver is holding funds in the amount of \$99,824,160.47 as of April 30, 2012.

Fee applications for the quarter ending January 31, 2012 are being prepared.

Dated: May 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>	(in \$ millions) Amount owed to or invested <u>in by MedCap</u>	Exhibit A <u>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	25
Concept 1 Academies	Loan to company who operated schools in Virginia	1.26	30
Edge Capital	Loans to company which funded real estate loans	20	32
Other Assets	Variety of loans and investments in non-medical ventures		34

Medical Accounts Receivable

Medical Capital Stated Value of A/R Accounts	104 Accounts	\$625,332,141.00¹
Verifiable Accounts Receivable	42 Accounts	\$80,637,383.00
– 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
Non-Existent Accounts Receivable	53 Accounts	\$ 542,894,528.00
– 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
Judgments on Accounts Receivable	9 Accounts	\$1,800,230.00

Status as of September 8, 2009:

- 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.

- 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.
- 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

¹ 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.

Status as of April 10, 2012:

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.

Current Status:

The Receiver is negotiating the terms of a Purchase and Sale Agreement with the prospective buyer, and expects to finalize an agreement in the near term. The Receiver will then file a motion for Court Approval of the sale, subject to overbid.

Legacy Medical Center

Description:

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

The Receivership Entities 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 Entities 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.