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

12 SECURITIES AND EXCHANGE  
13 COMMISSION,

14 Plaintiff,

15 vs.

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

18 Defendants.  
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Case No. SA CV09-0818 DOC (RNBx)  
RECEIVER'S AMENDED PLAN OF  
DISTRIBUTION

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1 **I. INTRODUCTION**

2 The Receiver appointed by the Court in the above-captioned action, Thomas A.  
3 Seaman, proposes this Distribution Plan to establish how funds in the Receivership Estate  
4 will be distributed to persons and/or entities holding Allowed Claims, which were  
5 determined through the Claims Process.<sup>1</sup> Information about the background of the SEC  
6 Enforcement Action that led to the appointment of the Receiver, as well as the Receiver's  
7 administration of the Receivership Estate, can be found in the pleadings filed by the SEC;  
8 monthly reports filed by the Receiver, including the Receiver's Forensic Accounting  
9 Report; and pleadings filed by the Receiver in connection with the administration of the  
10 Receivership Estate. All such documents are publicly available through PACER, and most  
11 of these documents are also publicly available on the Receiver's website,  
12 <http://www.medicalcapitalreceivership.com>.

13 **II. SUMMARY OF THE DISTRIBUTION PLAN**

14 For purposes of the Distribution Plan, the Receiver proposes to divide the assets of  
15 the Receivership Entities into two pools of assets, based upon the source of the funds:  
16 (1) the Receivership Asset Proceeds Fund, as defined herein, which will consist of the  
17 approximately \$105,000,000 (less reserves for administrative expenses) recovered to date  
18 from the disposition of assets of the Receivership Estate, and will include any additional  
19 monies recovered from the remaining assets of the Receivership Entities; and (2) the  
20 Litigation Fund, which will include any monies which may be recovered from the Related  
21 Litigation. No entity or individual that may have held an equity interest in MCH will  
22 receive a Plan Distribution from either fund.

23 In summary, the Receiver proposes to distribute the Receivership Assets Proceeds  
24 Fund and Litigation Fund as follows:

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27 <sup>1</sup> Capitalized terms used herein have the meaning assigned in the Definitions section of  
28 the Plan. In the event of a conflict or inconsistency between the terms of the  
Distribution Plan as described in any of the supporting documents and the terms set out  
in this Distribution Plan, the Distribution Plan controls.

1 (1) Administrative Claims, including professional fees and expenses as allowed  
2 by the Court, will be paid in cash from the Receivership Asset Proceeds Fund and  
3 Litigation Fund;

4 (2) Employee Priority Claims, which total \$268,707, and the Blue Shield  
5 Priority Claim will be paid in cash from the Receivership Asset Proceeds Fund. Any non-  
6 priority portion of a former employee's Allowed Claim will be treated as a Non-investor  
7 Creditor Claim;

8 (3) Secured Creditors with Allowed Claims will retain any security interest held  
9 prior to the Receivership Date and will be paid from the proceeds of such security. Any  
10 unpaid amounts of Secured Creditors' Allowed Claims will be treated as a Non-investor  
11 Creditor Claim;

12 (4) Noteholder Allowed Claims and Non-investor Creditor Allowed Claims will  
13 be paid Pro Rata and *Pari Passu* from the Receivership Assets Proceeds Fund, after  
14 payment of allowed Administrative Claims and allowed Employee Priority Claims, and  
15 appropriate reserves for future Administrative Claims; *provided*, however, that the amount  
16 of Noteholder Allowed Claims shall be reduced, dollar-for-dollar, by amounts received by  
17 such Noteholders, net of attorneys fees, from (a) Broker Litigation Recoveries, and (b)  
18 Related Litigation Recoveries that are not distributed or otherwise administered by the  
19 Receiver through the Litigation Fund; and

20 (5) Other than payment of Allowed Administrative Claims, no distributions shall  
21 be made from the Litigation Fund until such time as the Court has determined how such  
22 funds shall be distributed and authorized the Receiver to make such distributions.

23 In determining Pro Rata distribution amounts from the Receivership Asset Proceeds  
24 Fund, the total of Non-investor Creditor and Noteholder Allowed Claims will be added  
25 together to arrive at a denominator, and each individual Allowed Claim amount will be  
26 used as a numerator, to arrive at the percentage for the Pro Rata distribution amount of  
27 each Allowed Claim.

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1 **III. BACKGROUND**

2 Pursuant to the Receiver Order, Thomas A. Seaman is the Receiver appointed as a  
3 permanent receiver by the Court with respect to the Receivership Estate. The Receiver  
4 Order provided the Receiver with various rights, powers and duties with respect to the  
5 Receivership Estate. (See Preliminary Injunction and Order Appointing a Permanent  
6 Receiver, dated August 18, 2009, at Article VI (Docket. No. 44).) The Receiver's duties,  
7 responsibilities and activities generally fall into four categories:

8 (i) investigation of the financial condition of the Receivership Entities, the  
9 disposition of Investor funds and determining the extent of commingling of funds among  
10 the Defendants and Receivership Entities;

11 (ii) identifying and administering/liquidating all assets of the Receivership  
12 Entities so that the proceeds will be available to satisfy Noteholders' and creditors' claims;

13 (iii) pursuing and resolving claims against third parties so that the proceeds will  
14 be available to satisfy Noteholders' and creditors' claims; and

15 (iv) developing a Distribution Plan for distribution of assets and value to  
16 creditors and Noteholders.

17 **A. The Receivership Entities**

18 The Receivership Entities purported to be in the business of purchasing healthcare  
19 accounts receivable at a discount from healthcare providers, making other loans and  
20 investments, and managing the collection of such receivables/loans/investments. These  
21 activities were managed through its chief operating company, Medical Capital Corporation  
22 ("MCC"), a wholly owned subsidiary of Medical Capital Holdings, Inc. ("MCH"). Funds  
23 used to make investments were raised through the issuance of promissory notes to  
24 Noteholders from special purpose corporations, referred to as Medical Provider  
25 Funding/Financial Corporations ("MP Entities"). Medical Tracking Services, Inc.  
26 ("MTS") acted as the servicer to the MP Entities. MCC acted as the administrative agent  
27 for each MP Entity, which involved MCC identifying investments in receivables and other  
28 assets, and managing these investments in return for an administrative fee.

1 Prior to issuing notes, each MP Entity contracted with a bank to serve as trustee.  
2 MPFC 1 and MPFC 2 originally contracted with Zions First National Bank, which was  
3 later replaced by Bank of New York Mellon ("BNYM"). MPFC 3 and MPFC 5 contracted  
4 with Wells Fargo Bank ("Wells Fargo"). MPFC 4 and MPFC 6 contracted with BNYM.  
5 BNYM and Wells Fargo are referred to herein collectively as the "Trustees". Among other  
6 things, the Trustees controlled the trust accounts in which proceeds from the issuance of  
7 the notes were held. The contracts by which those relationships were formed were each  
8 known as the Note Issuance and Security Agreement ("NISA"). The Trustees' role was to  
9 hold in trust accounts all assets of the MP Entities, all of which constituted collateral for  
10 the notes issued by the MP Entities. The Trustees could disburse trust funds or release  
11 collateral to MCC for various reasons, including paying administrative fees and acquiring  
12 assets, but only upon the receipt of certain documents and certifications containing  
13 necessary representations. Pursuant to the NISAs, the notes, and the documents generated  
14 when funds were released by a Trustee to MCC to make an investment, the money  
15 collected on these investments and all rights held by the MP Entity in connection with the  
16 investment were pledged to the Trustees for the benefit of those Noteholders.

17 The Receivership Entities were very successful in attracting Noteholders, and raised  
18 over \$1.7 billion from Noteholders in the MP Entities. Noteholders in the first of the MP  
19 Entities, MPFC 1, were paid principal of approximately \$250 million, and interest pursuant  
20 to the terms of the promissory notes. Noteholders of the second of the MP Entities, MPFC  
21 2, received a substantial portion of principal repayments, and interest pursuant to the terms  
22 of the promissory notes, before it and the subsequent MP Entities defaulted on all interest  
23 and principal payments.

24 **B. The SEC Enforcement Action and the Appointment of the Receiver**

25 On July 16, 2009, the SEC filed a complaint against MCC and the other Defendants  
26 for alleged violations of federal securities laws. The SEC's complaint, as amended, alleges  
27 that Defendants engaged in securities fraud by making misrepresentations and  
28 misappropriating Noteholder funds. On the same day that the SEC filed its complaint, the

1 SEC filed an ex parte application for a temporary restraining order and appointment of a  
2 temporary receiver. On August 3, 2009, the Court issued a Temporary Restraining Order  
3 and Orders: (1) Freezing Assets; (2) Appointing a Temporary Receiver; (3) Prohibiting  
4 the Destruction of Documents; and (4) Requiring Accountings; and Order to Show Cause  
5 re Preliminary Injunction and Appointment of a Permanent Receiver. (See Docket No.  
6 20.) Thomas Seaman was appointed temporary receiver by that Order. On August 18,  
7 2009, the Court issued a Preliminary Injunction and Order Appointing a Permanent  
8 Receiver, which appointed Thomas Seaman as the permanent Receiver over MCH, and its  
9 subsidiaries and affiliates. (See Docket No. 44).

10 **C. The Receiver's Investigation**

11 Upon his appointment the Receiver immediately commenced an investigation of the  
12 assets and pre-receivership activities of the Receivership Entities. The Receiver's  
13 preliminary findings were contained in his initial report to Court. Additional information  
14 and the status of various assets can be found in the Receiver's monthly reports on file with  
15 the Court and available on the Receiver's website. The Receiver's continued investigation  
16 and forensic accounting of the operations of the Receivership Entities has revealed the  
17 following.

- 18 • The Receivership Entities' investing activities were not profitable.
- 19 • The assets available for distributions to Noteholders and creditors will be  
20 insufficient to pay claims in full.
- 21 • The Individual Defendants and MCC engaged in significant transfers of  
22 uncollectible loans among MP Entities to use Noteholders' investments to  
23 pay returns to other Noteholders.
- 24 • The Defendants overstated the value of collateral in order to justify seeking  
25 excessive administrative fees.
- 26 • The Individual Defendants used resources of the Receivership Entities for  
27 their own personal benefit.
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1 **IV. DEFINITIONS**

2 Unless the context requires otherwise, the following terms have the following  
3 meanings when used in their capitalized forms set forth in this Distribution Plan. Such  
4 meanings are equally applicable to both the singular and plural forms of the terms.

5 **Administrative Claims.** Claims arising from post Receivership Date activities  
6 such as services rendered by the Receiver and service rendered for the Receiver by  
7 attorneys and accountants, and subject to application and review by the Court.  
8 Administrative Claims also include, to the extent not paid in the ordinary course, claims  
9 for goods and services provided to the Receiver with the Receiver's express authority  
10 during the period of August 3, 2009, through the termination of the Receivership Case, and  
11 litigation claimants who prevail on any claim that they were damaged by the post  
12 Receivership Date conduct of the Receiver.

13 **Allowed Claim.** A Claim presented by a timely filed Proof of Claim and that is not  
14 objected to; or if objected to, allowed by agreement with the Receiver or allowed by a  
15 Final Order of the Court. An Allowed Claim is a necessary condition to the receipt of a  
16 Plan Distribution. The Court entered Orders establishing allowed claim amounts for all  
17 but a few claims on March 16, 2012 (Docket Nos. 673 and 674) and June 8, 2012 (Docket  
18 No. 720).

19 **Avoidance Actions.** The process to recover funds or other property from a  
20 transferee that is the equivalent of a preference, fraudulent conveyance, or similar relief,  
21 including, without limitation any Avoidance Actions that could have been brought by the  
22 Receivership Entities or any of their respective creditors or bankruptcy trustees, with  
23 respect to any property or transactions related to the Receivership Entities.

24 **Blue Shield Priority Claim.** The Allowed Claim of Blue Shield of California  
25 ("Blue Shield") in the amount of \$78,814.91.

26 **Broker Litigation Recoveries.** Amounts recovered by settlement, arbitration  
27 proceedings, or judgment enforcement by Noteholders from brokers, sales representatives,  
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1 or investment advisors for damages sustained or penalties imposed in connection with  
2 Noteholders' investment in the MP Entities.

3 **Claim.** Any right to payment whether or not such right is reduced to judgment,  
4 liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed,  
5 legal, equitable, secured or unsecured; or any right to an equitable remedy for breach of  
6 performance if such performance gives rise to a right of payment, whether or not such right  
7 to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured,  
8 disputed, undisputed, secured, or unsecured.

9 **Claimant.** The holder of a Claim.

10 **Claims Bar Date.** June 15, 2011, the deadline for Proof of Claim and Claim  
11 Information forms to be timely filed, set by order of Court dated April 18, 2011. Any  
12 Proof of Claim filed after the Claims Bar Date can, upon Court order, be disallowed or  
13 subordinated to timely filed Proofs of Claim.

14 **Claims Process.** The process for establishing the required form for Proofs of  
15 Claims to be submitted, the location for filing, the establishment of the Claims Bar Date,  
16 the method for determining the amount of Allowed Claims, the time for review and  
17 objection or allowance, and the procedures for resolving objections to Claims.

18 **Court.** The United States District Court, Central District of California, Southern  
19 Division, in which the SEC commenced its enforcement action, referred to herein as the  
20 Receivership Case.

21 **Defendants.** Medical Capital Holdings, Inc., Medical Capital Corporation, Medical  
22 Capital Provider Funding Corporation, VI, Sidney M. Field, and Joseph Lampariello.

23 **Discharge of Receiver.** The Court order that releases the Receiver from his  
24 appointment and duties, and any further responsibilities as Receiver.

25 **Disgorgement of Ill-Gotten Gains.** The right of a federal equity receiver to  
26 recover commissions, fees, distributions, and profits from parties who participated in the  
27 solicitation of or defrauding of Noteholders.

28 **Distribution Plan.** This Distribution Plan once approved by the Court.



1           **Distribution Plan Approval.** The Court order, after motion, opportunity for  
2 objections and hearing, that approves the terms of the Distribution Plan submitted by the  
3 Receiver.

4           **Employee Priority Claims.** Allowed Claims of former employees of the  
5 Receivership Entities up to \$11,725 for each employee for wages, salaries, including  
6 vacation, severance, and sick leave pay, earned within 180 days prior to the Receivership  
7 Date.

8           **Final Order.** An order, judgment or decree (or any revision, modification, and/or  
9 amendment thereof) of the Court which has not been reversed, set aside or stayed and as to  
10 which the time to appeal, to petition for certiorari or for rehearing, or to move for relief, to  
11 amend or alter, or to make additional findings of fact has expired and as to which no  
12 appeal, petition for certiorari or rehearing, or other proceedings for relief, to amend or  
13 alter, or make additional findings of fact shall then be pending.

14           **Indemnity Claims.** Claims asserted by individuals or entities for reimbursement of  
15 damages or fees and costs incurred by those individuals or entities on account of claims  
16 asserted in connection with or related to the pre-receivership activities and operations of  
17 the Receivership Entities.

18           **Individual Defendants.** Sidney M. Field and Joseph Lampariello.

19           **Joseph J. Lampariello.** A defendant in the SEC Enforcement Action.

20           **Litigation Fund.** A fund created after approval of the Distribution Plan in which  
21 the Receiver will hold all amounts recovered by the Receiver through settlement or  
22 judgment enforcement from defendants and potential defendants in the Related Litigation.

23           **MIMO.** MIMO is the acronym for Money-In/Money-Out; and is a well-accepted  
24 method of calculating Allowed Claims of investors in securities fraud receivership cases.  
25 Cash or any other material tangible value given or transferred to or retained by any of the  
26 Receivership Entities for purposes of investment ("Money-in") is reduced by all payments  
27 of principal, interest, rent, fees, or other payments, distributions or transfers of funds,  
28 securities, or other property or any other material tangible value paid, distributed, or

1 transferred out (for any reason) arising from or related to the investor's investment in the  
2 Receivership Entities ("Money-out"). The difference of the Money-in less the Money-out  
3 is the MIMO Allowed Claim. For purposes of illustration, material tangible value given or  
4 transferred could include, without limitation, assumed debt, land, services, or deferred  
5 compensation. By a separately filed claim objection the Receiver has requested that  
6 Allowed Claims of Noteholders be calculated according to the MIMO method. The Court  
7 has issued orders approving the Receiver's use of MIMO for the claims process. Docket  
8 Nos. 673, 720.

9 For Non-investor Creditors, the Receiver has sought approval of an analogous  
10 MIMO method to determine the amount of an Allowed Claim. That is, the Receiver has  
11 objected to Non-investor Creditor Claims to the extent that the claim seeks to recover  
12 consequential damages, interest, penalties or punitive damages.

13 **MP Entity and MP Entities.** Each of the following, individually, may be referred  
14 to as an MP Entity: Medical Provider Financial Corp. I, Medical Provider Financial Corp.  
15 II, Medical Provider Financial Corp. III, Medical Provider Financial Corp IV, Medical  
16 Provider Funding Corp. V, and Medical Provider Funding Corp. VI. Collectively, some  
17 or all of these are referred to as MP Entities.

18 **Noteholders.** Individuals and entities, and their estates or successors-in-interest  
19 that invested in the Receivership Entities through the purchase of notes issued by any of  
20 the MP Entities.

21 **Non-investor Creditors.** Individuals and entities that are not Noteholders, but who  
22 assert a Claim against the Receivership Entities.

23 ***Pari Passu.*** The treatment of allowed claims as being of equal priority for  
24 receiving Plan Distributions on a Pro Rata basis.

25 **Plan Distribution.** Anything of value distributed to a Claimant on account of an  
26 Allowed Claim pursuant to the Court-approved Distribution Plan.

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1           **Proof of Claim.** The completed Court-approved form that is required to be  
2 submitted to the Receiver by any person or entity that asserts a Claim as a condition to  
3 receiving a Plan Distribution.

4           **Pro Rata.** The method of distributing funds proportionately based on the Allowed  
5 Claim amount of each claimant sharing in that source of distributions. In determining Pro  
6 Rata distribution amounts from the Receivership Asset Proceeds Fund, the total of Non-  
7 investor Creditor and Noteholder Allowed Claims will be added together to arrive at a  
8 denominator, and each individual Allowed Claim amount will be used as a numerator, to  
9 arrive at the percentage for the Pro Rata distribution amount of each Allowed Claim.

10           **Receiver.** Thomas A. Seaman, the Court-appointed federal equity receiver in the  
11 SEC Enforcement Action or any Court-appointed successor.

12           **Receiver Order.** The Order entered by the Court in the SEC Enforcement Action  
13 on August 18, 2009, which, among other things, imposed a preliminary injunction and  
14 appointed a permanent Receiver over MCH and its subsidiaries and affiliates, and defined  
15 the Receiver's duties and responsibilities.

16           **Receivership Asset Proceeds Fund.** The total proceeds obtained by the Receiver  
17 from the aggregate of all assets, claims, rights and powers held by the Receivership  
18 Entities or created by the Receivership Order, including recoveries from Avoidance  
19 Actions, Disgorgement of Ill Gotten-Gains, or any recoveries from, or restitution amounts  
20 paid by, the Individual Defendants, but excluding recoveries from the Related Litigation.

21           **Receivership Date.** August 3, 2009, the date on which the Receiver was initially  
22 appointed as Temporary Receiver. The appointment was made permanent on August 18,  
23 2009.

24           **Receivership Entities.** The entities for which the Receiver has been appointed  
25 pursuant to the Receiver Order; specifically: Medical Capital Holdings, Inc. ("MCH"),  
26 Medical Capital Corporation ("MCC"), Medical Provider Financial Corp. I, Medical  
27 Provider Financial Corp. II, Medical Provider Financial Corp. III, Medical Provider  
28 Financial Corp IV, Medical Provider Funding Corp. V, and Medical Provider Funding

1 Corp. VI, and their subsidiaries and affiliates. Receivership Entities shall also include any  
2 entity that is placed under the Receiver's control by order of this Court in the future.

3 **Receivership Estate.** The aggregate of all assets, claims, rights and powers created  
4 by the appointment of the Receiver to the Receivership Entities.

5 **Related Litigation.** Lawsuits and claims asserted by the Receiver or Noteholders,  
6 individually or as part of a class action or mass action, against entities that served as a  
7 trustee to an MP Entity, or other professionals retained by the Receivership Entities, for  
8 damages sustained in connection with the issuance of notes by the MP Entities and  
9 subsequent transactions related thereto. Related Litigation includes the cases consolidated  
10 before the Court under Case No. 8:10-ml-02145-DOC, the arbitration proceeding against  
11 Manatt Phelps & Phillips, JAMS Ref. No. 120045556, and the complaint against Sedwick,  
12 LLP, Case No. SAC 11-664-CJC. Related Litigation does not include claims asserted by  
13 Noteholders that result in Broker Litigation Recoveries.

14 **SEC.** The Securities and Exchange Commission, plaintiff in the SEC Enforcement  
15 Action.

16 **SEC Enforcement Action.** The action filed by the SEC against defendants  
17 Medical Capital Holdings, Inc., Medical Capital Corporation, Medical Provider Funding  
18 Corporation VI, Sidney M. Field, and Joseph J. Lampariello, Case No. SA CV09-0818  
19 DOC (RNBx), pending in the United States District Court for the Central District of  
20 California.

21 **Secured Creditor.** A Claimant with a valid lien on or a valid security interest in  
22 Receivership Estate assets as collateral for a debt other than the liens asserted for the  
23 benefit of Noteholders.

24 **Sidney M. Field.** A defendant in the SEC Enforcement Action.

25 **Subordinated Claim.** An Allowed Claim that has been subordinated pursuant to  
26 order of the Court.

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1           **Subordination.** The classification of an Allowed Claim or a portion of an Allowed  
2 Claim in a junior priority position such that the Subordinated Claim receives Plan  
3 Distributions only after all non-subordinated Allowed Claims or portions are paid in full.

4           **Summary Procedures.** The Court-approved process for adjudicating disputes in  
5 the Receivership Case that comply with due process requirements but facilitate efficient  
6 and fair dispute resolution in order preserve Receivership Estate assets to increase Plan  
7 Distributions on Allowed Claims.

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9 **V.     POOLING OF RECEIVERSHIP ASSET PROCEEDS**

10           The Receivership Entities include the parent corporation, MCH, and its wholly-  
11 owned subsidiaries, MCC, the six MP Entities and all other subsidiaries and affiliates of  
12 MCH. The Receiver's investigation has revealed that, although each of the MP Entities  
13 was organized and maintained as a discrete legal entity, Defendants routinely transferred  
14 loans and other assets among and between the MP Entities to facilitate the transfer of new  
15 investor funds to earlier MP Entities and to pay returns to earlier investors. The total  
16 assets of the MP Entities were purportedly valued by Defendants at just under \$1 billion at  
17 the Receivership Date. The Defendants transferred loans and other assets among MP  
18 Entities through the purported "sale" of assets from an earlier MP Entity to a later MP  
19 Entity in return for cash. However, Defendants assigned unrealistic and grossly inflated  
20 values to the transferred assets, and these "sales" were a mechanism to transfer new  
21 investor funds to pay returns to Noteholders in other MP Entities, in a classic Ponzi  
22 scheme fashion. In addition, MCC requested and received administrative fees from one  
23 MP Entity's funds, and in some cases then "loaned" some of those funds to another MP  
24 Entity in order to pay returns to Noteholders of that MP Entity. The result of all of these  
25 transfers among and between the various MP Entities, either directly or indirectly, meant  
26 that any returns obtained by any particular Noteholder was a matter of chance, and the  
27 funds could have come from any number of sources among the various MP Entities.

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1 The law developed in equity receivership cases overwhelmingly holds that allowing  
2 one group of investors to assert a greater right to any particular asset pool over other,  
3 similarly situated, investors frustrates equity and is disfavored. As consistently noted by  
4 the courts, where insufficient assets exist to pay all claimants in full any distribution plan  
5 will be perceived as unfair by some claimants and each claimant's recovery comes at the  
6 expense of the others. This Distribution Plan acknowledges the effect of the transfers of  
7 MP Entity assets. The Receiver, in consultation with various parties in this case, has  
8 determined that the most fair and reasonable method of distributing the existing and future  
9 value of the Receivership Asset Proceeds to Noteholders with Allowed Claims is to pool  
10 such proceeds and distribute such amounts on a Pro Rata and *Pari Passu* basis. Non-  
11 investor Creditors with Allowed Claims will also receive distributions from the  
12 Receivership Asset Proceeds Fund, on a Pro Rata basis and *Pari Passu* with Noteholders.  
13 The Litigation Fund will be distributed as determined by further order of the Court.

14 All Claims against any Receivership Entity, and Claims to any assets of any  
15 Receivership Entity, will be treated and resolved pursuant to the Distribution Plan.  
16 Although the assets of the Receivership Entities will be collectively used to satisfy  
17 Allowed Claims in accordance with the Distribution Plan, the Distribution Plan does not  
18 involve substantive consolidation of any of the Receivership Entities. The pooling of  
19 assets is only for purposes of making Plan Distributions to holders of Allowed Claims  
20 under the Distribution Plan. Legal title to assets will continue to be held by the relevant  
21 Receivership Entities.

## 22 **VI. CLASSIFICATION AND TREATMENT OF CLAIMS**

### 23 **A. Classification**

24 To make Plan Distributions, all claims against the Receivership Estate are  
25 categorized into one of the following six classes:

#### 26 1. **Administrative Claims**

27 Administrative Claims include (i) the Court-approved fees and expenses of the  
28 Receiver, professionals employed by the Receiver, or other professionals approved by the

1 Court and allowed to file fee applications for payment with the Court; and (ii) unpaid  
2 operating expenses of a Receivership Entity incurred with the express prior approval of the  
3 Receiver during the period of August 3, 2009, through the termination of the Receivership  
4 Estate, and other post-Receivership Date Claims allowed by the Court.

5           2.     Priority Claims – Employees and Blue Shield

6           Priority Claims include (a) Allowed Claims of former employees of the  
7 Receivership Entities up to \$11,725 for each former employee earned within 180 days of  
8 the Receivership Date for wages and/or salaries, including vacation, severance, and sick  
9 pay and (b) the Blue Shield Priority Claim.

10           3.     Noteholder Claims

11           Noteholder Claims include all of the Claims of Noteholders who paid money or  
12 provided other material tangible value to obtain notes issued by the MP Entities.

13           4.     Secured Claims

14           Secured Claims include claims of Secured Creditors holding Allowed Claims to the  
15 extent such claims are secured. Secured Creditors will retain any security interest in their  
16 collateral held prior to the Receivership Date with the same priority and validity as existed  
17 on the Receivership Date. Noteholders are not treated as having secured claims.

18           5.     Non-Investor Creditor Claims

19           Non-investor Creditor Claims include all of the following:  
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- 1 (a) Claims of employees of the Receivership Entities for unpaid  
2 wages and/or salaries, or other payments, in accordance with  
3 the terms of employment and/or any employment contract, that  
4 exceed any Employee Priority Claim.  
5  
6 (b) Unsecured trade creditors that provided goods and/or services  
7 to the Receivership Entities before the Receivership Date and  
8 for which amounts remain unpaid.  
9  
10 (c) Claims of creditors asserting a security interest in property of  
11 the receivership estate to the extent not yet established,  
12 liquidated or sufficient to pay their full Allowed Claim.  
13  
14 (d) Claims of all other creditors holding unsecured claims against  
15 any of the Receivership Entities to the extent not otherwise  
16 classified.  
17

18 6. Indemnity Claims and Other Subordinated Claims

19 Indemnity Claims and other Claims with respect to which the Court has entered an  
20 Order subordinating those claims to all other Allowed Claims.

21 **B. Priority and Payment of Claims**

22 1. Administrative Claims

23 Allowed Administrative Claims shall be paid in cash from the Receivership Asset  
24 Proceeds Fund and the Litigation Fund. Administrative Claims for professional fees and  
25 expenses as identified in Section VI. A(1) above, shall be paid in cash in the amount  
26 ordered to be paid by the Court after application and review.  
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1                   2.     Priority Claims of Employees and Blue Shield

2             Allowed Employee Priority Claims and the Blue Shield Priority Claim shall be paid  
3 in cash from the Receivership Asset Proceeds Fund.

4                   3.     Secured Creditors

5             Secured Creditors holding Allowed Claims will retain any valid security interest  
6 held prior to the Receivership Date and following liquidation of the collateral, will be paid  
7 from the liquidation proceeds in the same order and priority as their liens up to the unpaid  
8 balance of their Allowed Claim at that time. The Allowed Claim of a Secured Creditor  
9 receiving a liquidation proceeds payment will be reduced by the amount of the payment.  
10 Secured Creditors whose collateral has not been liquidated at the time of a distribution  
11 hereunder will be eligible to participate in such distribution as a Non-investor Creditor.  
12 Receiver reserves the right to abandon such assets as to which the Receiver has determined  
13 that there is no value.

14                   4.     Noteholder Claims and Adjustments to Distributions

15             Payments will be made from the Receivership Asset Proceeds Fund to: (a)  
16 Noteholders holding Allowed Claims, and (b) Non-investor Creditors holding Allowed  
17 Claims, Pro Rata and *Pari Passu*, after payment of: (i) Allowed Employee Priority Claims  
18 (ii) Allowed Administrative Claims, and (iii) appropriate reserves for future  
19 Administrative Claims.

20             Payments of Allowed Administrative Claims may be made from the Litigation  
21 Fund; however, no distributions shall be made from the Litigation Fund until such time as  
22 the Court has determined how such funds shall be distributed and authorized the Receiver  
23 to make such distributions.

24             The amount of a Noteholder's Allowed Claim will be reduced, dollar-for-dollar, by  
25 the amount received by the Noteholder, net of attorneys' fees, from: (i) Broker Litigation  
26 Recoveries, and/or (ii) Related Litigation Recoveries that are not administered by the  
27 Receiver or otherwise included in the Litigation Fund. In order to make this deduction the  
28 Receiver will require, as a prerequisite to receiving a distribution, that each Noteholder

1 provide a statement under penalty of perjury as to the status of, and net recoveries from  
2 any claims asserted against third parties in connection with the purchase of notes issued by  
3 the MP Entities.

4 5. Non-investor Creditor Claims

5 Non-investor Creditors holding Allowed Claims will receive distributions from the  
6 Receivership Asset Proceeds Fund Pro Rata and *Pari Passu* with distributions made to  
7 Noteholders holding Allowed Claims.

8 6. Indemnity Claims and Other Subordinated Claims

9 Indemnity Claims and other Subordinated Claims will receive distributions only  
10 after all other Allowed Claims are paid in full.

11  
12 **VII. CLAIMS PROCESS**

13 On December 21, 2010, the Receiver filed his Motion to approve Claims  
14 Procedures, Establishing Bar Date, Approving Claim Form, etc. (the "Claims Process  
15 Motion"). The Claims Process Motion was approved by order of the Court dated  
16 January 31, 2011 and sets forth the Receiver's proposed claims solicitation, verification,  
17 and allowance process for all Claimants. In the Order approving the Claims Process  
18 Motion, the Court set May 1, 2011, as the Claims Bar Date. At the request of the  
19 Receiver, the Court subsequently extended the Claims Bar Date to June 15, 2011. The  
20 Claims Bar Date is the last date by which the Receiver must receive Proofs of Claim of  
21 any type against any of the Receivership Entities. The Claims Process was necessary to  
22 determine the total amount of claims being made against the Receivership Estate, and for  
23 the Court to determine the total Allowed Claims, so that the Receiver would know who  
24 was entitled to Plan Distributions, and could determine a Pro Rata amount for any such  
25 distributions.

26 Following the Receiver's review of submitted Proofs of Claim, the Receiver filed  
27 omnibus claim objections seeking to establish an allowed amount and classification for  
28 each Claim. Each Claimant that timely filed claims or claim information forms was

1 afforded the opportunity to review and reply to the Receiver's objection and proposed  
2 allowed amount and classification. Claim disputes that were not consensually resolved,  
3 have been or will be determined by the Court utilizing Summary Procedures to ensure  
4 expeditious administration of the Receivership Estate.

5  
6 **VIII. DISTRIBUTIONS UNDER THE DISTRIBUTION PLAN**

7 **A. Disallowance of Claims of Entities Liable to Receivership Estate**

8 Except as otherwise ordered by the Court, in every instance, no holder of an  
9 otherwise Allowed Claim who is liable for Disgorgement of Ill-Gotten Gains or is liable to  
10 the Receivership Estate for return of funds in connection with an Avoidance Action, or in  
11 connection with any other action or account, shall receive any Plan Distribution until full  
12 payment to the Receiver of the liability. To the extent necessary to determine allowance of  
13 any Claim, the Court may determine the respective Claimant's liability to the Receivership  
14 Estate through Summary Procedures. The Receiver shall reserve for such Claims pending  
15 resolution, as set forth below.

16 **B. Distributions to Priority Allowed Claims**

17 Allowed Priority Employee Claims and the Blue Shield Priority Claim will be paid  
18 in full from the Receivership Assets Proceeds Fund to the extent provided in section  
19 VI.B.2.

20 **C. Distributions on Noteholder Allowed Claims and Non-investor**  
21 **Allowed Claims**

22 Noteholder Allowed Claims and Non-investor Creditor Allowed Claims will be  
23 paid Pro Rata from the Receivership Asset Proceeds Fund. Noteholder Allowed Claims  
24 will be subject to reduction by the amount of recoveries from other sources as provided in  
25 section VI.B.4, above.

26 **D. Timing of Plan Distributions**

27 The Receiver will make interim distributions as soon as feasible after a Final Order  
28 is entered approving a distribution plan. In making interim distributions, the Receiver will

1 set appropriate reserves as contemplated in section VIII. E. Interim distributions may be  
2 made from time to time, subject to the Receiver's discretion and Court order, when  
3 material amounts are available and at intervals that are reasonably practicable.

4 **E. Reserves**

5 In making interim distributions, the Receiver shall reserve for the following  
6 contingencies:

- 7 1. Disputed Claim Amounts. In making any interim distributions the Receiver  
8 shall set appropriate reserves to allow a Pro Rata distribution to be made on the full  
9 amount of a disputed Claim or a Claim not entitled to receive a Plan Distribution under  
10 Section VIII.A hereof, until the allowed amount of such Claim or the entitlement to a Plan  
11 Distribution under Section VIII.A is finally determined;
- 12 2. Administrative Claims and Operating Costs. The Receiver estimates that the  
13 administrative, operational and litigation expenses associated with fully administering the  
14 Receivership Estate will be approximately \$7.5 million. In making interim distributions,  
15 the Receiver will set a reserve in that amount to cover those expenses; and
- 16 3. Taxes. The IRS has filed one claim for approximately \$169 million in pre-  
17 receivership taxes, penalties, and interest, and a second claim for approximately \$10  
18 million in post receivership taxes, penalties and interest. The Receiver does not expect the  
19 Receivership Estate to have any tax liabilities. In addition, the Receiver is completing  
20 amended and restated tax returns for the Receivership Entities which will reflect that  
21 Receivership Entities had no taxable income and are entitled to a refund of approximately  
22 \$10 million for overpaid taxes. The Receiver therefore anticipates that the IRS will  
23 withdraw its significant claims prior to any distributions being made. In the unlikely event  
24 that the IRS does not withdraw its claims, the Receiver and the IRS will work together to  
25 estimate any liability and agree on an appropriate modest reserve that will allow a  
26 maximum distribution to Noteholders and creditors.

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1           **F.     Disposition of Unclaimed Property**

2           Any distribution of cash or other asset under the Distribution Plan which is  
3 unclaimed after six (6) months following the date of distribution shall be forfeited, and  
4 such distribution, together with any interest earned thereon, shall be available for  
5 distribution by the Receiver to other holders of Allowed Claims.

6  
7 **IX.   RESERVATION OF RIGHT TO PROPOSE DISTRIBUTION PLAN**  
8 **MODIFICATIONS**

9           The Receiver is proposing the Distribution Plan at this time in order to make interim  
10 distributions to Noteholders and Non-Investor Creditors based upon the information  
11 currently available. Accordingly, the Receiver reserves the right to propose modifications  
12 to the Distribution Plan to the Court as deemed necessary to respond to changing  
13 circumstances.

14  
15 **X.    TERMINATION OF EXECUTORY CONTRACTS**

16           All executory contracts not previously terminated or expired by their own terms and  
17 that have not been expressly assumed and ratified by the Receiver will be deemed  
18 terminated as of the Receivership Date. Executory contracts are those contracts which  
19 were entered into by the Receivership entities and with respect to which performance was  
20 due from both parties to the contracts at the time the Receiver was appointed. Executory  
21 contracts relating to the operation of National Health Benefits Corporation ("NHBC") are  
22 specifically excluded from this provision.

23  
24 **XI.   MEANS TO EFFECTUATE DISTRIBUTION PLAN**

25           Implementation of the Distribution Plan will take place as soon as practicable after  
26 Distribution Plan Approval with an initial interim distribution. Periodic interim  
27 distributions will be made as additional Receivership Asset Proceeds are recovered by the  
28 Receiver.

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**XII. RETENTION OF JURISDICTION**

The Court shall have and retain exclusive jurisdiction of matters arising out of, and related to the SEC Enforcement Action and the Distribution Plan for, among other things, the following purposes:

1. To resolve through Summary Procedures the Receiver's pursuit of Disgorgement of Ill-Gotten Gains and Avoidance Actions suitable for resolution by the Court.
2. To consider any modification of this Distribution Plan.
3. To hear and determine all objections or other disputes with respect to Claims.
4. To protect the property of the Receivership Estate from adverse claims or interference inconsistent with the Distribution Plan.
5. To cure any defect or omission, or reconcile any inconsistency in the Distribution Plan or any order of the Court.
6. To issue such orders in aid of execution of the Distribution Plan as may be necessary and appropriate.
7. To hear and determine all applications for compensation and reimbursement of expenses of the Receiver and professionals.
8. To hear and determine all litigation, causes of action and all controversies, suits and disputes that may arise in connection with the interpretation, implementation or enforcement of this Distribution Plan and any settlements or compromises reflected herein.
9. To recover all assets of the Receivership Estate, wherever located.
10. To enter a Final Decree closing the Receivership Case and discharging the Receiver.

1 **XIII. MISCELLANEOUS PROVISIONS**

2 This Distribution Plan supersedes all prior discussions, understandings, agreements,  
3 and documents pertaining or relating to any subject matter of the Distribution Plan. The  
4 headings used in this Distribution Plan are inserted for convenience only and neither  
5 constitute a portion of the Distribution Plan nor in any manner shall affect the provisions  
6 or interpretation(s) of the Distribution Plan.

7 All notices, requests and demands to or upon the Receiver to be effective shall be in  
8 writing (including, without limitation, by facsimile transmission) addressed as follows:

9 Thomas A. Seaman  
10 Thomas Seaman Company  
11 3 Park Plaza, Suite 550  
12 Irvine, CA 92614

12 with a copy to:

13 David R. Zaro, Esq./Michael R Farrell, Esq.  
14 Allen Matkins Leck Gamble Mallory & Natsis LLP  
15 515 South Figueroa Street, 9th Floor  
16 Los Angeles, California 90071-3309

17 Dated: September 26, 2012

ALLEN MATKINS LECK GAMBLE  
MALLORY & NATSIS LLP

19 By: /s/ Loraine L. Pedowitz

20 LORAIN L. PEDOWITZ  
21 Attorneys for Receiver  
22 Thomas A. Seaman

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