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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 vs.

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

18 Defendants.
19

Case No. SA CV09-0818 DOC (RNBx)

**NOTICE OF FILING OF [PROPOSED]
ORDER APPROVING RECEIVER'S
AMENDED PLAN OF DISTRIBUTION
AND AUTHORIZING FIRST INTERIM
DISTRIBUTION (REDLINED VERSION
ATTACHED AS EXHIBIT 2)**

Date: September 19, 2012
Time: 1:30 p.m.
Ctrm: 9D
Judge: Honorable David O. Carter

1 Thomas A. Seaman, Receiver for Medical Capital Holdings, Inc., Medical Capital
2 Corporation, Medical Provider Funding Corporation VI, and their subsidiaries and
3 affiliates ("Receiver"), hereby files his [Proposed] Order Approving Receiver's Amended
4 Plan of Distribution and Authorizing First Interim Distribution attached hereto as
5 Exhibit 1. For the convenience of the Court and interested parties, attached hereto as
6 Exhibit 2 is a copy of the Amended Plan of Distribution Plan with the amendments shown
7 in redline.

8
9 Dated: September 27, 2012

ALLEN MATKINS LECK GAMBLE
MALLORY & NATSIS LLP

10
11 By: _____ /s/ Loraine L. Pedowitz

LORAIN L. PEDOWITZ
Attorneys for Receiver
THOMAS A. SEAMAN

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EXHIBIT 1

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

vs.

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

Defendants.

Case No. SA CV09-0818 DOC (RNBx)

**[PROPOSED] ORDER APPROVING
RECEIVER'S AMENDED PLAN OF
DISTRIBUTION AND AUTHORIZING
FIRST INTERIM DISTRIBUTION**

Date: September 19, 2012
Time: 1:30 p.m.
Ctm: 9D
Judge: Honorable David O. Carter

1 The Court, having considered the motion of Thomas A. Seaman ("Receiver"),
2 Court-appointed permanent receiver for Medical Capital Holdings, Inc., Medical Capital
3 Corporation, Medical Provider Funding Corporation VI, and their subsidiaries and
4 affiliates, for an order approving his proposed distribution plan and authorizing first
5 interim distribution ("Motion"), and all papers filed in support and opposition to the
6 Motion, and good cause appearing therefor, hereby orders as follows:

7 1. Subject to further Order of the Court on the Objections of Bank of New York
8 Mellon and Wells Fargo Bank pursuant to the procedure identified in the Court's Order
9 dated September 14, 2012 (Docket #832):

10 a) The Motion is granted.

11 b) The Receiver's Amended Plan of Distribution (Docket #) is
12 approved.

13 c) The Receiver is authorized to make interim distributions as provided
14 in the Amended Distribution Plan.

15 d) The Receiver is immediately authorized and empowered to effectuate
16 the terms and provisions of the Amended Distribution Plan and this Order.

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18 IT IS SO ORDERED.

19

20 Dated: _____, 2012

Hon. David O. Carter
Judge, United States Bankruptcy Court

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EXHIBIT 2

1 DAVID R. ZARO (BAR NO. 124334)
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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
13 COMMISSION,

14 Plaintiff,

15 vs.

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

18 Defendants.
19

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

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.¹ 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:

25
26
27 ¹ 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) Noteholders' Allowed Claims and Non-investor Creditor Allowed Claims
13 will be paid Pro Rata and *Pari Passu* from: ~~(i) the Receivership Assets Proceeds Fund,~~
14 ~~after payment of allowed Administrative Claims and allowed Employee Priority Claims,~~
15 ~~and appropriate reserves for future Administrative Claims; and (ii) the Litigation Fund,~~
16 ~~after payment of allowed Administrative Claims and appropriate reserves for future~~
17 ~~Administrative Claims; provided, however, that the amount of any Noteholder's Allowed~~
18 ~~Claims shall be reduced, dollar-for-dollar, by amounts received by such Noteholders, net~~
19 ~~of attorneys fees, from (a) Broker Litigation Recoveries, and (b) Related Litigation~~
20 ~~Recoveries that are not distributed or otherwise administered by the Receiver through the~~
21 ~~Litigation Fund; and~~

22 (5) Other than payment of Allowed Administrative Claims, no distributions shall
23 be made from the Litigation Fund until such time as the Court has determined how such
24 funds shall be distributed and authorized the Receiver to make such distributions. Non-
25 ~~investor Creditors holding Allowed Claims will receive Pro Rata distributions from the~~
26 ~~Receivership Asset Proceeds Fund.~~

27 In determining Pro Rata distribution amounts from the Receivership Asset Proceeds
28 Fund, the total of Non-investor Creditor and Noteholder Allowed Claims will be added

1 together to arrive at a denominator, and each individual Allowed Claim amount will be
2 used as a numerator, to arrive at the percentage for the Pro Rata distribution amount of
3 each Allowed Claim.

4 ~~In determining Pro Rata distribution amounts from the Litigation Fund, the total of~~
5 ~~all Noteholder Allowed Claims will be added together to arrive at a denominator, and each~~
6 ~~Noteholder Allowed Claim amount will be used as a numerator (after any reductions as~~
7 ~~outlined in this Distribution Plan), to arrive at the percentage for the Pro Rata distribution~~
8 ~~amount for each Noteholder from the Litigation Fund.~~

9
10 **III. BACKGROUND**

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

17 (i) investigation of the financial condition of the Receivership Entities, the
18 disposition of Investor funds and determining the extent of commingling of funds among
19 the Defendants and Receivership Entities;

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

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

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

26 **A. The Receivership Entities**

27 The Receivership Entities purported to be in the business of purchasing healthcare
28 accounts receivable at a discount from healthcare providers, making other loans and

1 investments, and managing the collection of such receivables/loans/investments. These
2 activities were managed through its chief operating company, Medical Capital Corporation
3 ("MCC"), a wholly owned subsidiary of Medical Capital Holdings, Inc. ("MCH"). Funds
4 used to make investments were raised through the issuance of promissory notes to
5 Noteholders from special purpose corporations, referred to as Medical Provider
6 Funding/Financial Corporations ("MP Entities"). Medical Tracking Services, Inc.
7 ("MTS") acted as the servicer to the MP Entities. MCC acted as the administrative agent
8 for each MP Entity, which involved MCC identifying investments in receivables and other
9 assets, and managing these investments in return for an administrative fee.

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

26 The Receivership Entities were very successful in attracting Noteholders, and raised
27 over \$1.7 billion from Noteholders in the MP Entities. Noteholders in the first of the MP
28 Entities, MPFC 1, were paid principal of approximately \$250 million, and interest pursuant

1 to the terms of the promissory notes. Noteholders of the second of the MP Entities, MPFC
2 2, received a substantial portion of principal repayments, and interest pursuant to the terms
3 of the promissory notes, before it and the subsequent MP Entities defaulted on all interest
4 and principal payments.

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

6 On July 16, 2009, the SEC filed a complaint against MCC and the other Defendants
7 for alleged violations of federal securities laws. The SEC's complaint, as amended, alleges
8 that Defendants engaged in securities fraud by making misrepresentations and
9 misappropriating Noteholder funds. On the same day that the SEC filed its complaint, the
10 SEC filed an ex parte application for a temporary restraining order and appointment of a
11 temporary receiver. On August 3, 2009, the Court issued a Temporary Restraining Order
12 and Orders: (1) Freezing Assets; (2) Appointing a Temporary Receiver; (3) Prohibiting
13 the Destruction of Documents; and (4) Requiring Accountings; and Order to Show Cause
14 re Preliminary Injunction and Appointment of a Permanent Receiver. (See Docket No.
15 20.) Thomas Seaman was appointed temporary receiver by that Order. On August 18,
16 2009, the Court issued a Preliminary Injunction and Order Appointing a Permanent
17 Receiver, which appointed Thomas Seaman as the permanent Receiver over MCH, and its
18 subsidiaries and affiliates. (See Docket No. 44).

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

20 Upon his appointment the Receiver immediately commenced an investigation of the
21 assets and pre-receivership activities of the Receivership Entities. The Receiver's
22 preliminary findings were contained in his initial report to Court. Additional information
23 and the status of various assets can be found in the Receiver's monthly reports on file with
24 the Court and available on the Receiver's website. The Receiver's continued investigation
25 and forensic accounting of the operations of the Receivership Entities has revealed the
26 following.

- 27
 - The Receivership Entities' investing activities were not profitable.
- 28

- 1 • The assets available for distributions to Noteholders and creditors will be
- 2 insufficient to pay claims in full.
- 3 • The Individual Defendants and MCC engaged in significant transfers of
- 4 uncollectible loans among MP Entities to use Noteholders' investments to
- 5 pay returns to other Noteholders.
- 6 • The Defendants overstated the value of collateral in order to justify seeking
- 7 excessive administrative fees.
- 8 • The Individual Defendants used resources of the Receivership Entities for
- 9 their own personal benefit.

10
11 **IV. DEFINITIONS**

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

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

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

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

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

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

12 **Claim.** Any right to payment whether or not such right is reduced to judgment,
13 liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed,
14 legal, equitable, secured or unsecured; or any right to an equitable remedy for breach of
15 performance if such performance gives rise to a right of payment, whether or not such right
16 to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured,
17 disputed, undisputed, secured, or unsecured.

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

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

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

27
28

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

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

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

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

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

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

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

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

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

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

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

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

6 **MIMO.** MIMO is the acronym for Money-In/Money-Out; and is a well-accepted
7 method of calculating Allowed Claims of investors in securities fraud receivership cases.
8 Cash or any other material tangible value given or transferred to or retained by any of the
9 Receivership Entities for purposes of investment ("Money-in") is reduced by all payments
10 of principal, interest, rent, fees, or other payments, distributions or transfers of funds,
11 securities, or other property or any other material tangible value paid, distributed, or
12 transferred out (for any reason) arising from or related to the investor's investment in the
13 Receivership Entities ("Money-out"). The difference of the Money-in less the Money-out
14 is the MIMO Allowed Claim. For purposes of illustration, material tangible value given or
15 transferred could include, without limitation, assumed debt, land, services, or deferred
16 compensation. By a separately filed claim objection the Receiver has requested that
17 Allowed Claims of Noteholders be calculated according to the MIMO method. The Court
18 has ~~taken under submission the Receiver's request for an~~ issued orders approving the
19 Receiver's use of MIMO for the claims process. Docket Nos. 673, 720.

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

24 **MP Entity and MP Entities.** Each of the following, individually, may be referred
25 to as an MP Entity: Medical Provider Financial Corp. I, Medical Provider Financial Corp.
26 II, Medical Provider Financial Corp. III, Medical Provider Financial Corp IV, Medical
27 Provider Funding Corp. V, and Medical Provider Funding Corp. VI. Collectively, some
28 or all of these are referred to as MP Entities.

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

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

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

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

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

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

19 ~~In determining Pro Rata distribution amounts from the Litigation Fund, the total of~~
20 ~~all Noteholder Allowed Claims will be added together to arrive at a denominator, and each~~
21 ~~Noteholder Allowed Claim amount will be used as a numerator, after any reductions as~~
22 ~~outlined in this Distribution Plan, to arrive at the percentage for the Pro Rata distribution~~
23 ~~amount for each Noteholder from the Litigation Fund.~~

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

26 **Receiver Order.** The Order entered by the Court in the SEC Enforcement Action
27 on August 18, 2009, which, among other things, imposed a preliminary injunction and
28

1 appointed a permanent Receiver over MCH and its subsidiaries and affiliates, and defined
2 the Receiver's duties and responsibilities.

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

8 **Receivership Date.** August 3, 2009, the date on which the Receiver was initially
9 appointed as Temporary Receiver The appointment was made permanent on August 18,
10 2009.

11 **Receivership Entities.** The entities for which the Receiver has been appointed
12 pursuant to the Receiver Order; specifically: Medical Capital Holdings, Inc. ("MCH"),
13 Medical Capital Corporation ("MCC"), Medical Provider Financial Corp. I, Medical
14 Provider Financial Corp. II, Medical Provider Financial Corp. III, Medical Provider
15 Financial Corp IV, Medical Provider Funding Corp. V, and Medical Provider Funding
16 Corp. VI, and their subsidiaries and affiliates. Receivership Entities shall also include any
17 entity that is placed under the Receiver's control by order of this Court in the future.

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

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

1 **SEC.** The Securities and Exchange Commission, plaintiff in the SEC Enforcement
2 Action.

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

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

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

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

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

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

21
22 **V. POOLING OF RECEIVERSHIP ASSET PROCEEDS**

23 The Receivership Entities include the parent corporation, MCH, and its wholly-
24 owned subsidiaries, MCC, the six MP Entities and all other subsidiaries and affiliates of
25 MCH. The Receiver's investigation has revealed that, although each of the MP Entities
26 was organized and maintained as a discrete legal entity, Defendants routinely transferred
27 loans and other assets among and between the MP Entities to facilitate the transfer of new
28 investor funds to earlier MP Entities and to pay returns to earlier investors. The total

1 assets of the MP Entities were purportedly valued by Defendants at just under \$1 billion at
2 the Receivership Date. The Defendants transferred loans and other assets among MP
3 Entities through the purported “sale” of assets from an earlier MP Entity to a later MP
4 Entity in return for cash. However, Defendants assigned unrealistic and grossly inflated
5 values to the transferred assets, and these "sales" were a mechanism to transfer new
6 investor funds to pay returns to Noteholders in other MP Entities, in a classic Ponzi
7 scheme fashion. In addition, MCC requested and received administrative fees from one
8 MP Entity's funds, and in some cases then “loaned” some of those funds to another MP
9 Entity in order to pay returns to Noteholders of that MP Entity. The result of all of these
10 transfers among and between the various MP Entities, either directly or indirectly, meant
11 that any returns obtained by any particular Noteholder was a matter of chance, and the
12 funds could have come from any number of sources among the various MP Entities.

13 The law developed in equity receivership cases overwhelmingly holds that allowing
14 one group of investors to assert a greater right to any particular asset pool over other,
15 similarly situated, investors frustrates equity and is disfavored. As consistently noted by
16 the courts, where insufficient assets exist to pay all claimants in full any distribution plan
17 will be perceived as unfair by some claimants and each claimant's recovery comes at the
18 expense of the others. This Distribution Plan acknowledges the effect of the transfers of
19 MP Entity assets. The Receiver, in consultation with various parties in this case, has
20 determined that the most fair and reasonable method of distributing the existing and future
21 value of the Receivership Asset Proceeds to Noteholders with Allowed Claims is to pool
22 such proceeds and distribute such amounts on a Pro Rata and *Pari Passu* basis. Non-
23 investor Creditors with Allowed Claims will also receive distributions from the
24 Receivership Asset Proceeds Fund, on a Pro Rata basis and *Pari Passu* with Noteholders.
25 The Litigation Fund will be distributed as determined by further order of the Court~~Pro Rata~~
26 ~~and *Pari Passu* to Noteholders with Allowed Claims, and not to other claimants with~~
27 ~~Allowed Claims, because the Related Litigation generally relates to Noteholder issues, as~~
28 ~~opposed to general creditor issues.~~

1 All Claims against any Receivership Entity, and Claims to any assets of any
2 Receivership Entity, will be treated and resolved pursuant to the Distribution Plan.
3 Although the assets of the Receivership Entities will be collectively used to satisfy
4 Allowed Claims in accordance with the Distribution Plan, the Distribution Plan does not
5 involve substantive consolidation of any of the Receivership Entities. The pooling of
6 assets is only for purposes of making Plan Distributions to holders of Allowed Claims
7 under the Distribution Plan. Legal title to assets will continue to be held by the relevant
8 Receivership Entities.

9 **VI. CLASSIFICATION AND TREATMENT OF CLAIMS**

10 **A. Classification**

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

13 1. Administrative Claims

14 Administrative Claims include (i) the Court-approved fees and expenses of the
15 Receiver, professionals employed by the Receiver, or other professionals approved by the
16 Court and allowed to file fee applications for payment with the Court; and (ii) unpaid
17 operating expenses of a Receivership Entity incurred with the express prior approval of the
18 Receiver during the period of August 3, 2009, through the termination of the Receivership
19 Estate, and other post-Receivership Date Claims allowed by the Court.

20 2. ~~Employee~~-Priority Claims – Employees and Blue Shield

21 ~~Employee~~-Priority Claims include (a) Allowed Claims of former employees of the
22 Receivership Entities up to \$11,725 for each former employee earned within 180 days of
23 the Receivership Date for wages and/or salaries, including vacation, severance, and sick
24 pay ~~and~~ (b) the Blue Shield Priority Claim.

25 3. Noteholder Claims

26 Noteholder Claims include all of the Claims of Noteholders who paid money or
27 provided other material tangible value to obtain notes issued by the MP Entities.
28

1 4. Secured Claims

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

6 5. Non-Investor Creditor Claims

7 Non-investor Creditor Claims include all of the following:

- 8 (a) Claims of employees of the Receivership Entities for unpaid
9 wages and/or salaries, or other payments, in accordance with
10 the terms of employment and/or any employment contract, that
11 exceed any Employee Priority Claim.
- 12
- 13 (b) Unsecured trade creditors that provided goods and/or services
14 to the Receivership Entities before the Receivership Date and
15 for which amounts remain unpaid.
- 16
- 17 (c) Claims of creditors asserting a security interest in property of
18 the receivership estate to the extent not yet established,
19 liquidated or sufficient to pay their full Allowed Claim.
- 20
- 21 (d) Claims of all other creditors holding unsecured claims against
22 any of the Receivership Entities to the extent not otherwise
23 classified.
- 24

25 6. Indemnity Claims and Other Subordinated Claims

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

28

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

2 1. Administrative Claims

3 Allowed Administrative Claims shall be paid in cash from the Receivership Asset
4 Proceeds Fund and the Litigation Fund. Administrative Claims for professional fees and
5 expenses as identified in Section VI. A(1) above, shall be paid in cash in the amount
6 ordered to be paid by the Court after application and review.

7 2. ~~Employee~~ Priority Claims of Employees and Blue Shield

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

10 3. Secured Creditors

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

20 4. Noteholder Claims and Adjustments to Distributions

21 Payments will be made from the Receivership Asset Proceeds Fund to: (a)
22 Noteholders holding Allowed Claims, and (b) Non-investor ~~Trade~~-Creditors holding
23 Allowed Claims, Pro Rata and *Pari Passu*, after payment of: (i) Allowed Employee
24 Priority Claims (ii) Allowed Administrative Claims, and (iii) appropriate reserves for
25 future Administrative Claims.

26 Payments of Allowed Administrative Claims may be made from the Litigation
27 Fund; however, no distributions shall be made from the Litigation Fund until such time as
28 the Court has determined how such funds shall be distributed and authorized the Receiver

1 ~~to make such distributions. Payments will be made from the Litigation Fund to Noteholders~~
2 ~~holding Allowed Claims, Pro Rata and *Pari Passu*, after payment of: (i) Allowed~~
3 ~~Administrative Claims, and (ii) appropriate reserves for future Administrative Claims.~~

4 The amount of a Noteholder's Allowed Claim will be reduced, dollar-for-dollar, by
5 the amount received by the Noteholder, net of attorneys' fees, from: (i) Broker Litigation
6 Recoveries, and/or (ii) Related Litigation Recoveries that are not administered by the
7 Receiver or otherwise included in the Litigation Fund. In order to make this deduction the
8 Receiver will require, as a prerequisite to receiving a distribution, that each Noteholder
9 provide a statement under penalty of perjury as to the status of, and net recoveries from
10 any claims asserted against third parties in connection with the purchase of notes issued by
11 the MP Entities.

12 5. Non-investor Creditor Claims

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

16 6. Indemnity Claims and Other Subordinated Claims

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

19

20 **VII. CLAIMS PROCESS**

21 On December 21, 2010, the Receiver filed his Motion to approve Claims
22 Procedures, Establishing Bar Date, Approving Claim Form, etc. (the "Claims Process
23 Motion"). The Claims Process Motion was approved by order of the Court dated
24 January 31, 2011 and sets forth the Receiver's proposed claims solicitation, verification,
25 and allowance process for all Claimants. In the Order approving the Claims Process
26 Motion, the Court set May 1, 2011, as the Claims Bar Date. At the request of the
27 Receiver, the Court subsequently extended the Claims Bar Date to June 15, 2011. The
28 Claims Bar Date is the last date by which the Receiver must receive Proofs of Claim of

1 any type against any of the Receivership Entities. The Claims Process was necessary to
2 determine the total amount of claims being made against the Receivership Estate, and for
3 the Court to determine the total Allowed Claims, so that the Receiver would know who
4 was entitled to Plan Distributions, and could determine a Pro Rata amount for any such
5 distributions.

6 Following the Receiver's review of submitted Proofs of Claim, the Receiver filed
7 omnibus claim objections seeking to establish an allowed amount and classification for
8 each Claim. Each Claimant that timely filed claims or claim information forms was
9 afforded the opportunity to review and reply to the Receiver's objection and proposed
10 allowed amount and classification. Claim disputes that were not consensually resolved,
11 have been or will be determined by the Court utilizing Summary Procedures to ensure
12 expeditious administration of the Receivership Estate.

13
14 **VIII. DISTRIBUTIONS UNDER THE DISTRIBUTION PLAN**

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

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

24 **B. Distributions to Priority ~~Employee~~ Allowed Claims**

25 Allowed Priority Employee Claims [and the Blue Shield Priority Claim](#) will be paid
26 in full from the Receivership Assets Proceeds Fund to the extent provided in section
27 VI.B.2.

28

1 **C. Distributions on Noteholder Allowed Claims and Non-investor**
2 **Allowed Claims**

3 Noteholder Allowed Claims and Non-investor Creditor Allowed Claims will be
4 paid Pro Rata from the Receivership Asset Proceeds Fund ~~and from the Litigation Fund~~.
5 Noteholder Allowed Claims will be subject to reduction by the amount of recoveries from
6 other sources as provided in section VI.B.4, above. ~~Non-investor Creditor Allowed Claims~~
7 ~~will be paid Pro Rata from Receivership Asset Proceeds based on the Allowed Claim.~~

8 **D. Timing of Plan Distributions**

9 The Receiver will make interim distributions as soon as feasible after a Final Order
10 is entered approving a distribution plan. In making interim distributions, the Receiver will
11 set appropriate reserves as contemplated in section VIII. E. Interim distributions may be
12 made from time to time, subject to the Receiver's discretion and Court order, when
13 material amounts are available and at intervals that are reasonably practicable.

14 **E. Reserves**

15 In making interim distributions, the Receiver shall reserve for the following
16 contingencies:

- 17 1. Disputed Claim Amounts. In making any interim distributions the Receiver
18 shall set appropriate reserves to allow a Pro Rata distribution to be made on the full
19 amount of a disputed Claim or a Claim not entitled to receive a Plan Distribution under
20 Section VIII.A hereof, until the allowed amount of such Claim or the entitlement to a Plan
21 Distribution under Section VIII.A is finally determined;
- 22 2. Administrative Claims and Operating Costs. The Receiver estimates that the
23 administrative, operational and litigation expenses associated with fully administering the
24 Receivership Estate will be approximately \$7.5 million. In making interim distributions,
25 the Receiver will set a reserve in that amount to cover those expenses; and
- 26 3. Taxes. The IRS has filed one claim for approximately \$169 million in pre-
27 receivership taxes, penalties, and interest, and a second claim for approximately \$10
28 million in post receivership taxes, penalties and interest. The Receiver does not expect the

1 Receivership Estate to have any tax liabilities. In addition, the Receiver is completing
2 amended and restated tax returns for the Receivership Entities which will reflect that
3 Receivership Entities had no taxable income and are entitled to a refund of approximately
4 \$10 million for overpaid taxes. The Receiver therefore anticipates that the IRS will
5 withdraw its significant claims prior to any distributions being made. In the unlikely event
6 that the IRS does not withdraw its claims, the Receiver and the IRS will work together to
7 estimate any liability and agree on an appropriate modest reserve that will allow a
8 maximum distribution to Noteholders and creditors.

9 **F. Disposition of Unclaimed Property**

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

14
15 **IX. RESERVATION OF RIGHT TO PROPOSE DISTRIBUTION PLAN**
16 **MODIFICATIONS**

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

22
23 **X. TERMINATION OF EXECUTORY CONTRACTS**

24 All executory contracts not previously terminated or expired by their own terms and
25 that have not been expressly assumed and ratified by the Receiver will be deemed
26 terminated as of the Receivership Date. Executory contracts are those contracts which
27 were entered into by the Receivership entities and with respect to which performance was
28 due from both parties to the contracts at the time the Receiver was appointed. Executory

1 contracts relating to the operation of National Health Benefits Corporation ("NHBC") are
2 specifically excluded from this provision.

3
4 **XI. MEANS TO EFFECTUATE DISTRIBUTION PLAN**

5 Implementation of the Distribution Plan will take place as soon as practicable after
6 Distribution Plan Approval with an initial interim distribution. Periodic interim
7 distributions will be made as additional Receivership Asset Proceeds are recovered by the
8 Receiver, ~~and/or as amounts are deposited in the Litigation Fund.~~

9
10 **XII. RETENTION OF JURISDICTION**

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

- 14 1. To resolve through Summary Procedures the Receiver's pursuit of
15 Disgorgement of Ill-Gotten Gains and Avoidance Actions suitable for resolution by the
16 Court.
 - 17 2. To consider any modification of this Distribution Plan.
 - 18 3. To hear and determine all objections or other disputes with respect to
19 Claims.
 - 20 4. To protect the property of the Receivership Estate from adverse claims or
21 interference inconsistent with the Distribution Plan.
 - 22 5. To cure any defect or omission, or reconcile any inconsistency in the
23 Distribution Plan or any order of the Court.
 - 24 6. To issue such orders in aid of execution of the Distribution Plan as may be
25 necessary and appropriate.
 - 26 7. To hear and determine all applications for compensation and reimbursement
27 of expenses of the Receiver and professionals.
- 28

1 8. To hear and determine all litigation, causes of action and all controversies,
2 suits and disputes that may arise in connection with the interpretation, implementation or
3 enforcement of this Distribution Plan and any settlements or compromises reflected herein.

4 9. To recover all assets of the Receivership Estate, wherever located.

5 10. To enter a Final Decree closing the Receivership Case and discharging the
6 Receiver.

7
8 **XIII. MISCELLANEOUS PROVISIONS**

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

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

16 Thomas A. Seaman
17 Thomas Seaman Company
18 3 Park Plaza, Suite 550
19 Irvine, CA 92614

20 with a copy to:

21 David R. Zaro, Esq./Michael R Farrell, Esq.
22 Allen Matkins Leck Gamble Mallory & Natsis LLP
23 515 South Figueroa Street, 9th Floor
24 Los Angeles, California 90071-3309

25 Dated: ~~August 3~~ September 26, 2012

ALLEN MATKINS LECK GAMBLE
MALLORY & NATSIS LLP

26 By: /s/ Loraine L. Pedowitz

27 LORAIN L. PEDOWITZ
28 Attorneys for Receiver
Thomas A. Seaman