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5  
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Chapter 7 Bankruptcy Trustee

7  
8 **UNITED STATES BANKRUPTCY COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA, SANTA ANA DIVISION**  
10

11 In re  
12 **PROFESSIONAL BUSINESS**  
13 **PLANNING & RESEARCH INC.,**  
14  
15 Debtor.

Case No. SA 04-10201 TA  
Chapter 7  
**CHAPTER 7 TRUSTEE'S NOTICE OF MOTION  
AND MOTION FOR ORDER:**

- (1) **APPROVING THE SETTLEMENT AND  
COMPROMISE OF THE ADVERSARY  
PROCEEDING BETWEEN THE ESTATE  
AND PETER J. SUKIN, M.D., INC.,  
MONEY PURCHASE PENSION PLAN,  
ET AL., ADV. CASE NO. SA 06-01094 TA;**
- (2) **APPROVING THE SALE OF REAL  
PROPERTY OF THE ESTATE FREE  
AND CLEAR OF CERTAIN LIENS  
PURSUANT TO BANKRUPTCY CODE  
363(b)(1) AND (f) AND SUBJECT TO  
OVERBID PROCEDURES PURSUANT  
TO THE TERMS OF THE PROPOSED  
SETTLEMENT**

**MEMORANDUM OF POINTS AND  
AUTHORITIES; DECLARATION OF JOHN M.  
WOLFE IN SUPPORT THEREOF**

[Property Location: 3330 Gilbert Avenue, Cayucos, CA]  
Date: May 8, 2007  
Time: 11:00 A.M.  
Place: Courtroom 5B  
411 West Fourth Street  
Santa Ana, California 92701

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1 TO THE HONORABLE THEODOR C. ALBERT, UNITED STATES BANKRUPTCY  
2 JUDGE, THE OFFICE OF THE UNITED STATES TRUSTEE, THE DEBTOR AND ITS  
3 COUNSEL, CREDITORS AND OTHER PARTIES-IN-INTEREST:

4 NOTICE

5 PLEASE TAKE NOTICE that on May 8, 2007 at 11:00 A.M., in Courtroom 5B,  
6 before the Honorable Theodor C. Albert, United States Bankruptcy Judge, John M. Wolfe,  
7 Chapter 7 Trustee ("Trustee") for the bankruptcy estate ("Estate") of Professional Business  
8 Planning & Research, Inc., a California corporation ("Debtor") will bring this Motion For Order:  
9 (1) Approving the Settlement and Compromise of the Adversary Proceeding Between the Estate  
10 and Peter J. Sukin, M.D., Inc., Money Purchase Pension Plan, et al., Adv. Case No. SA 06-01094  
11 TA; (2) Approving the Sale of Real Property of the Estate Free and Clear of Certain Liens  
12 Pursuant to Bankruptcy Code 363(b)(1) and (f) and Subject to Overbid Procedures Pursuant to  
13 the Terms of the Proposed Settlement ("Settlement Motion").

14 The Trustee believes that the interests of the creditors and the interest of the Estate would  
15 best be served if this Court approves the Settlement Motion. The expenses incurred for  
16 continued litigation of the disputes among the parties would most likely exceed any additional  
17 benefit that might be achieved.

18 The Settlement Motion is based upon this Notice of the Motion, the Motion and  
19 Memorandum of Points and Authorities in Support thereof, the Declaration of John M. Wolfe,  
20 the pleadings and files in the Debtor's bankruptcy case, and upon such further oral and  
21 documentary evidence as may be presented to the Court in support of the Settlement Motion.

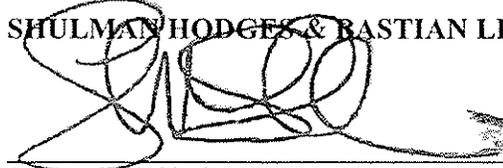
22 PLEASE TAKE FURTHER NOTICE that objections, if any, shall be filed with the  
23 Clerk of the above Court and a copy served upon Shulman Hodges & Bastian LLP to the  
24 attention of Mark Bradshaw, 26632 Towne Centre Drive, Suite 300, Foothill Ranch, California  
25 92610 and the Office of the United States Trustee, Ronald Reagan Federal Building and United  
26 States Courthouse, 411 West Fourth Street, #9041, Santa Ana, California 92701-8000 no later  
27 than fourteen days prior to the scheduled hearing.

28

1 PLEASE TAKE FURTHER NOTICE that failure to file a timely response may be  
2 deemed as consent to the relief requested in the Settlement Motion. SEE, LOCAL  
3 BANKRUPTCY RULE 9013-1(a)(7) and (11).

4  
5 Dated: April 5, 2007

SHULMAN HODGES & BASTIAN LLP



6  
7  
8 Leonard M. Shulman  
Mark Bradshaw  
Attorneys for John M. Wolfe, the Chapter 7 Trustee  
for the Bankruptcy Estate of  
Professional Business Planning & Research Inc.

1 MOTION

2 In support of the Settlement Motion, the Trustee respectfully represents as follows:

3 **A. Case Commencement**

4 The Debtor filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code  
5 on January 14, 2004 ("Petition Date").

6 Pursuant to the Application for Order Approving Appointment of Chapter 11 Trustee and  
7 Fixing Bond; and Order Thereon filed by the Office of the United States Trustee ("UST") and  
8 approved by the Court by Order entered July 14, 2004, the UST appointed John M. Wolfe  
9 ("Trustee") as the Chapter 11 Trustee for the Estate.

10 The Trustee determined that administration of the case did not require the Debtor to  
11 remain in a Chapter 11 proceeding. As such, upon the Motion of the Trustee, and pursuant to  
12 Court Order entered July 20, 2006 ("Conversion Date"), the case was converted to a Chapter 7  
13 proceeding.

14 John M. Wolfe is the duly appointed, qualified and acting Trustee for the Debtor's  
15 Chapter 7 Estate.

16 **B. The Adversary Proceeding Against Peter J. Sukin, M.D., Inc., Money Purchase Plan**  
17 **and Peter J. Sukin, Trustee**

18 Debtor's records indicate that the Debtor was formed and organized as a corporation by  
19 Rodney C. Miles ("Miles") on or about October 12, 1977 and that Miles was the sole shareholder  
20 of the Debtor at all times from and after its inception.

21 The Debtor's Bankruptcy Schedules indicated that as of the Petition Date, the Debtor had  
22 an interest in certain parcels of vacant land located in Cayucos, California including a parcel  
23 located at 3330 Gilbert Avenue, California, APN 064-427-083 ("Property").

24 Pursuant to Court order, the Trustee was authorized to employ a real estate agent to  
25 market the Property, but has not received any offer for the purchase of the Property which  
26 exceeds the amount of the liens of record against the Property. The most recent offer for the  
27 Property was \$160,000 and set forth in the chart below, the Property is encumbered by liens  
28 totaling at least \$361,500:

Lienholder	Approximate Amount
First priority lien in favor of Irvin and Willie Anderson	\$70,000.00
San Luis Obispo County Treasurer and Tax Collector for real property taxes	\$16,500.00
Peter J. Sukin, M.D., Inc., Money Purchase Plan and Peter J. Sukin, Trustee (collectively "Sukin" or the Sukin Parties")	\$275,000.00
Total	\$361,500.00

In its Bankruptcy Schedule D, the Debtor listed the secured claim of the Sukin Parties as contingent, disputed and unliquidated and further indicated that the debt owed to the Sukin Parties was not an obligation of the Estate, but rather an obligation of Miles.

The Trustee has alleged that prior to the Transfer (defined below), the Sukin Parties were unsecured creditors of Miles. The Trustee has further alleged that Sukin Parties are not creditors of the Estate.

The Trustee alleged that on or about March 21, 2001, Miles caused the Debtor to transfer its interest in the Property to a Miles' entity known as RCMARM, Inc. The Trustee further alleged that on or about April 26, 2001, Miles on behalf of himself and/or RCMARM, Inc. caused the Property to be encumbered by a lien in favor of the Sukin Parties ("Transfer").

The Trustee alleged that the Sukin Parties did not provide value to the Debtor in exchange for acquiring their interest in the Property. Finally, the Trustee alleged that on or about July 30, 2002, Miles caused RCMARM, Inc. to transfer its interest in the Property, now encumbered by a lien in favor of the Sukin Parties, back to the Debtor for no consideration.

Based on the foregoing allegations, on or about November 11, 2006, the Trustee filed an "Amended Complaint For: (1) Avoidance of Intentional Fraudulent Transfers; (2) Avoidance of Constructive Fraudulent Transfers; and (3) Recovery of Avoided Transfers" against the Sukin Parties ("Amended Complaint").

The Sukin Parties have denied the Trustee's allegations set forth in the Amended Complaint and have filed an Answer thereto denying that the Trustee can recover under any legal

1 theory. The Sukin Parties maintain, among other things, that they did provide value in exchange  
2 for acquiring their interest in the Property and that their lien on the Property is valid and fully  
3 enforceable.

4 **C. The Settlement and Compromise**

5 The Trustee has determined that the costs to litigate the avoidance lawsuit against the  
6 Sukin Parties will likely outweigh any additional recovery the Estate might achieve if the Trustee  
7 were to continue with litigation to recover the full amount of the Transfer. As such, in order to  
8 eliminate the need for costly litigation, subject to Court approval, the Trustee and the Sukin  
9 Parties have entered into a certain Settlement Agreement, a true and correct copy of which is  
10 attached as **Exhibit A** to the Declaration of John M. Wolfe. The principal terms of the  
11 Settlement Agreement are as follows:

12 1. Sukin, or his nominee shall be appointed by Sukin during an escrow (hereinafter  
13 "Sukin/Nominee"), and will purchase and obtain fee title to the Property on the following terms  
14 and in a transaction all of which will be handled through an escrow company chosen by  
15 Sukin/Nominee:

16 a. Sukin/Nominee will assume full responsibility for the first Deed of Trust  
17 and related promissory note(s) in favor of Irvin and Willie Anderson;

18 b. Sukin/Nominee will pay the San Luis Obispo County Treasurer and Tax  
19 Collector's claim in the amount in full concurrent with making the Settlement Payment;

20 c. Sukin/Nominee will tender to the Trustee, a check in the amount of  
21 \$15,000 made payable to John M. Wolfe, Chapter 7 Trustee for the bankruptcy estate of  
22 Professional Business Planning & Research Inc., ("Settlement Payment"). The Settlement  
23 Payment reflects a carve-out from lien against the Property in favor of the Sukin Parties;

24 d. Sukin/Nominee will pay all usual and customary escrow fees, the buyer's  
25 title insurance premium, and closing costs;

26 e. Subject to payment of those debts and liens referenced in (a) and (b)  
27 above, and payment of the Settlement Payment net of any sums applicable under Paragraph (f)  
28 below, if any, Sukin/Nominee will receive insured fee title to the Property free and clear of all

1 liens and encumbrances except ongoing property taxes and property tax assessments as may be  
2 applicable, and free and clear of any and all creditor claims within Debtor's pending bankruptcy  
3 action including but not limited to writs of attachment, judgment liens, and any other liens  
4 whether asserted or not;

5 f. Sukin/Nominee will have no obligation to pay any real estate broker  
6 commissions or fees; if any such commissions or fee obligations exist regarding this transaction,  
7 payment of such commissions or fees will be the sole obligation of the Trustee and be payable  
8 from and debited against the Settlement Payment obligation by the escrow officer before  
9 distribution of said funds to the Trustee. Should there be a dispute between the Trustee and any  
10 real estate broker regarding a commission or fee payable, that dispute will in no way delay or  
11 interfere with the remaining obligations and the transfer of title to the Property to Sukin/Nominee  
12 as set forth herein;

13 g. Each of the above payments including the Settlement Payment will be  
14 delivered at the close of escrow by the escrow officer concurrent with the transfer of fee title to  
15 the Property, as described above, to Sukin/Nominee.

16 h. Escrow regarding said transaction will open within ten days following  
17 Bankruptcy Court approval of the Settlement Agreement.

18 2. The transfer of insured fee title to the Property to Sukin/Nominee, free and clear  
19 of liens and encumbrances except ongoing property taxes and property tax assessments as may  
20 be applicable, is an express condition precedent to any payment obligation under the Settlement  
21 Agreement.

22 3. The Trustee, on behalf of the Estate, agrees and stipulates to dismiss the Amended  
23 Complaint, with prejudice, with each party to bear its' own costs, within ten days after receipt of  
24 the Settlement Payment.

25 4. The Settlement Agreement specifically provides that the Trustee provide notice of  
26 the settlement in part as a sale, subject to overbid, in case there is any party interest that can and  
27 will offer more overall compensation for the purchase of the Property than is contemplated by  
28 the settlement. Under the Settlement Agreement, the purchase value for the Property is

1 stipulated to be the combined sum of the first deed of trust at \$70,000, the tax lien of \$16,500,  
2 and the Sukin lien of \$275,000, for a total purchase price of \$361,500. It is further agreed and  
3 stipulated as a term of the Settlement Agreement that in the event of an overbid that results in the  
4 purchase of the Property by someone other than Sukin/Nominee, the Trustee stipulates to the  
5 validity of the lien in favor of the Sukin Parties in the amount of \$275,000 and withdraws any  
6 and all challenge to the Transfer and agrees to dismiss the Amended Complaint, with prejudice.

7           5.       Effective only upon close of the escrow under the Settlement Agreement whereby  
8 title to the Property is transferred to Sukin/Nominee, the Trustee and the Estate, on behalf of  
9 themselves, and anyone else claiming by and through them, including without limitation their  
10 executors, administrators, insurance companies, predecessors, successors, assigns, agents,  
11 servants, employees, corporations, officers, directors, partnerships, partners, associates,  
12 attorneys, representatives, principals, joint ventures, parents, trustees, subsidiaries, shareholders,  
13 past and present, or anyone else claiming by and through him, if any, do hereby acknowledge  
14 full and complete satisfaction of and do hereby fully and forever release and discharge Sukin as  
15 well as his executors, administrators, predecessors, successors, assigns, agents, servants,  
16 employees, corporations, officers, directors, partnerships, partners, associates, attorneys,  
17 representatives, principals, joint ventures, parents, trustees, subsidiaries, affiliates, shareholders,  
18 past and present, and each of them (the "Sukin Releasees"), from any and all claims, demands  
19 and causes of action of any kind or nature whatsoever, whether known or unknown, suspected or  
20 unsuspected, whether concealed or hidden, which Trustee now owns or holds against the Sukin  
21 Releasees, by reason of any matter relating to the Transfer, or the Estate's interest in the  
22 Property, including any claims under U.S.C. §§ 544, 547, 548 and 550 and California Civil Code  
23 §§ 3439.04, 3439.05 and 3439.07.

24           6.       Effective only upon close of the escrow under the Settlement Agreement whereby  
25 title to the Property is transferred to Sukin/Nominee, Sukin, on behalf of himself, his executors,  
26 administrators, insurance companies, predecessors, successors, assigns, agents, servants,  
27 employees, corporations, officers, directors, partnerships, partners, associates, attorneys,  
28 representatives, principals, joint ventures, parents, trustees, subsidiaries, shareholders, past and

1 present, or anyone else claiming by and through them, does hereby acknowledge full and  
2 complete satisfaction of and does hereby fully and forever release and discharge the Trustee, the  
3 estate and any of Trustee's executors, administrators, predecessors, successors, assigns, agents,  
4 servants, employees, officers, directors, partnerships, partners, associates, attorneys,  
5 representatives, principals, past and present, and each of them (the "Trustee Releasees"), from  
6 any and all claims, demands and causes of action of any kind or nature whatsoever, whether  
7 known or unknown, suspected or unsuspected, whether concealed or hidden, which Sukin now  
8 owns or holds against the Trustee Releasees.

9           7. It is a condition hereof, and it is the intention of the Parties hereto in executing the  
10 Settlement Agreement and in giving the Releases set forth therein, that the same shall be  
11 effective as a bar to each and every claim, demand, and cause of action, matter or thing specified;  
12 and in furtherance of this specific intention, the parties to the Settlement Agreement hereby  
13 expressly waive any and all rights and benefits conferred upon them by the provisions of Section  
14 1542 of the California Civil Code which provides:

15                   **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS  
16 WHICH THE CREDITOR DOES NOT KNOW OR  
17 SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE  
18 TIME OF EXECUTING THE RELEASE, WHICH IF  
19 KNOWN BY HIM OR HER MUST HAVE MATERIALLY  
20 AFFECTED HIS OR HER SETTLEMENT WITH THE  
21 DEBTOR.**

19 **D. Notice Of Overbid Procedures**

20           As set forth above, the Settlement Agreement specifically provides that the Trustee  
21 provide notice of the settlement in part as a sale, subject to overbid, in case there is any party  
22 interest that can and will offer more overall compensation for the purchase of the Property than is  
23 contemplated by the settlement. Accordingly, in order to obtain the highest and best offer for the  
24 benefit of the creditors of this Estate, the Trustee also seeks Court approval of the following  
25 bidding procedures:

26           1. The potential overbidders must bid an initial amount of at least \$5,000 over the  
27 price offered for the Property by Sukin. Thus, the initial minimum overbid must be at least  
28 \$20,000 cash and the agreement to assume all liens encumbering the Property as follows:

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Lienholder	Approximate Amount
First priority lien in favor of Irvin and Willie Anderson	\$70,000.00
San Luis Obispo County Treasurer and Tax Collector for real property taxes	\$16,500.00
Peter J. Sukin, M.D., Inc., Money Purchase Plan and Peter J. Sukin, Trustee (collectively "Sukin" or the Sukin Parties")	\$275,000.00
Total	\$361,500.00

2. Overbids must be in writing and be received by Trustee's counsel, Shulman Hodges & Bastian LLP to the attention of Mark Bradshaw by no later than the time of hearing on the Settlement Motion.

3. Overbids must be accompanied by certified funds in an amount equal to ten percent of the overbid purchase price.

4. The overbidder must also provide evidence of having sufficient specifically committed funds to complete the transaction or a lending commitment for the bid amount and such other documentation relevant to the bidder's ability to qualify as the purchaser of Property and ability to close the sale and immediately and unconditionally pay the winning bid purchase price at closing.

5. The overbidder must seek to acquire the Property on terms and conditions not less favorable to the Estate than the terms and conditions to which the Buyer has agreed to purchase the Property, including closing on the sale of the Property in the same time parameters as the Buyer and agreeing that there will be no buyer contingencies.

6. If overbids are received, the final bidding round for the Property shall be held at the hearing on the Settlement Motion in order to allow all potential bidders the opportunity to overbid and purchase the Property.

The foregoing procedures will provide for an orderly completion of the sale of the Property and insures that potential overbidders are provided with full disclosure as to the overbid procedures and the specific Property to be sold. By having all bidders compete on similar terms, the interested parties and the Court may compare competing bids in order to realize the highest

1 benefit for the Estate. Thus, the Trustee is requesting that the Court approve the overbid  
2 procedures as a fair and reasonable method of realizing the highest and best price for the  
3 Property for the benefit of this Estate's creditors.

4 **E. Good Cause Exists to Approve the Settlement and Compromise and Sale of the**  
5 **Property Subject to Overbids Pursuant to the Terms of the Settlement Agreement**

6 The Trustee believes that good cause exists to approve the proposed settlement based on  
7 the following:

8 • Although the Trustee believes in the strength of the Estate's case, the Trustee  
9 understands the risks inherent in any litigation. The Trustee would have to litigate the disputes  
10 with the Sukin Parties and respond to any appeal of a judgment that the Trustee may obtain. The  
11 issues involved are complex and would require substantial time and money to resolve. The  
12 settlement avoids costly and risky activities related to litigation of the disputes and results in  
13 benefit to the Estate – i.e., a \$15,000 payment to the Estate representing a carve-out from the lien  
14 against the Property in favor of the Sukin Parties. Absent the settlement, the Estate may receive  
15 no benefit from the Property and the Trustee may likely have to abandon the Estate's interest in  
16 the Property due to the total amount of liens.

17 • As the outcome of the disputes with the Sukin Parties would impact the  
18 administration of this case through increased litigation costs, approval of the Settlement  
19 Agreement will aid the Trustee in preserving assets of the Estate.

20 • The expenses incurred for continued litigation of the disputes with the Sukin  
21 Parties would most likely exceed any additional benefit that might be achieved. The settlement  
22 the Trustee has reached provides certainty and guaranties the Estate will retain cash from the  
23 Property. Due to the costs of litigation, the amount under the settlement is likely greater than the  
24 Trustee could realize if he was successful in litigating the matter against the Sukin Parties.

25 • The Trustee recognizes that certain creditors of the Estate have asserted that the  
26 value of the Property is higher than what it is being administered for under the Settlement  
27 Agreement. However, the Debtor extensively marketed the Property for sale prior to the  
28 Trustee's appointment. While the Debtor and other parties in interest have previously asserted

1 that the Property is worth substantially more, the reality of this case is that no buyer has stepped  
2 forward offering such believed fair market value.

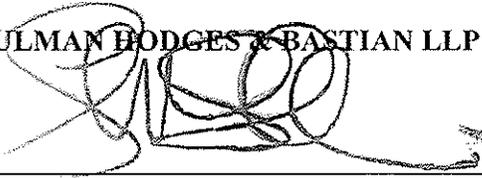
3 In summary, the settlement of the disputes with the Sukin Parties is based on good  
4 business judgment that will benefit the Estate and creditors and therefore approval of the  
5 Settlement Motion is proper.

6 **WHEREFORE**, based upon this Settlement Motion, the Trustee requests the Court enter  
7 an Order granting the following:

- 8 1. Approving the Settlement Agreement.
- 9 2. Authorizing the Trustee to execute any and all documents in order to carry out the  
10 terms of the settlement and compromise, including but not limited to the Settlement Agreement.
- 11 3. Except for the liens against the Property in favor of Irvin and Willie Anderson and  
12 San Luis Obispo County Treasurer and Tax Collector, authorizing the Trustee to transfer the  
13 Property pursuant to the terms of the Settlement Agreement free and clear of any and all creditor  
14 claims within Debtor's pending bankruptcy action including but not limited to writs of  
15 attachment, judgment liens, and any other liens whether asserted or not.
- 16 4. Approving the bidding procedures used in connection with implementing the  
17 Settlement Agreement.
- 18 5. So that the Trustee does not lose this favorable business opportunity, waiving the  
19 ten-day stay of the order approving the Settlement Agreement under Federal Rules of  
20 Bankruptcy Procedure 6004(g).
- 21 6. And the Court enter such other and further relief the Court deems just and proper.

22 Dated: April 5, 2007

23 **SHULMAN HODGES & BASTIAN LLP**

24   
25 \_\_\_\_\_  
26 Leonard M. Shulman  
27 Mark Bradshaw  
28 Attorneys for John M. Wolfe, the Chapter 7 Trustee  
for the Bankruptcy Estate of  
Professional Business Planning & Research Inc.

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. ENTRY OF AN ORDER APPROVING THE SETTLEMENT IS PROPER**

3 The power of the Court to review and approve settlements is expressly recognized in  
4 Federal Rule of Bankruptcy Procedure 9019(a), which provides:

5 On motion by the trustee and after notice and a hearing, the court  
6 may approve a compromise or settlement. Notice shall be given to  
7 creditors, the United States trustee, the debtor, and indenture  
8 trustees as provided in Rule 2002 and to any other entity as the  
9 court may direct

10 Thus, upon notice to a debtor's creditors, the United States Trustee, debtors, and  
11 indenture trustees, settlement of a claim of the estate is appropriate. The approval of a  
12 compromise is a core proceeding under 28 U.S.C. §157(b)(2)(A) and (O). In re Carla Leather,  
13 Inc., 50 B.R. 764, 775 (S.D.N.Y. 1985).

14 **II. THE COURT MAY APPROVE A SETTLEMENT AND COMPROMISE WHICH**  
15 **IS FAIR AND EQUITABLE**

16 The purpose of a compromise agreement between a debtor and a creditor is to allow the  
17 parties to avoid the expenses and burdens associated with litigation. Martin v. Kale (In re A & C  
18 Properties), 784 F.2d 1377, 1380-81 (9th Cir. 1986), cert. denied sub nom, Martin v. Robinson,  
19 479 U.S. 854 (1986). The bankruptcy court has great latitude in approving compromise  
20 agreements as long as it finds that the compromise is fair and equitable. Id. at 1382; see also,  
21 Woodson v. Fireman's Fund Ins. Co. (In re Woodson), 839 F.2d 610, 620 (9th Cir. 1988).  
22 Generally, the benchmark in determining the propriety of a settlement is whether the settlement  
23 is in the best interests of the estate and its creditors. In re Energy Cooperative, Inc., 886 F.2d  
24 921, 927 (7th Cir. 1989). To be approved, the settlement need not represent the highest possible  
25 return to the estate, but merely must fall within the "range of reasonableness." In re Walsh  
26 Construction, Inc., 669 F.2d 1325, 1328 (9th Cir. 1992). In making this determination, the  
27 bankruptcy court need not conduct a trial or even a "mini trial" on the merits. Id.

28 In determining the fairness, reasonableness and adequacy of a proposed settlement  
agreement, the Court must consider the following factors:

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(a) The probability of success in the litigation; (b) the difficulties, if any, to be encountered in the matter of collection; (c) the complexity of the litigation involved, and the expense, inconvenience, and delay necessarily attending it; (d) the paramount interests of the creditors and a proper deference to their reasonable views in the premises.

A & C Properties, 784 F.2d at 1381; Woodson, 839 F.2d at 620. In other words, the Court must weigh certain factors in order to determine whether the compromise is in the best interests of the bankrupt estate. A & C Properties, 784 F.2d at 1382.

**A. The Probability of Success in Litigation**

Although the Trustee believes in the strength of the Estate’s case, the Trustee understands the risks inherent in any litigation. The Trustee would have to litigate the disputes with the Sukin Parties and respond to any appeal of a judgment that the Trustee may obtain. The issues involved are complex and would require substantial time and money to resolve. The settlement avoids costly and risky activities related to litigation of the disputes and results in benefit to the Estate – i.e., a \$15,000 payment to the Estate representing a carve-out from the lien against the Property in favor of the Sukin Parties. Absent the settlement, the Estate may receive no benefit from the Property and the Trustee may likely have to abandon the Estate’s interest in the Property due to the total amount of liens. The settlement the Trustee has reached provides certainty and guaranties the Estate will retain cash from the administration of the Property.

**B. The Complexity, Expense, Inconvenience and Delay of Litigation**

The Trustee would have to litigate the disputes with the Sukin Parties including possible appeals. The issues involved are complex and will require substantial time and money to resolve. Rather than delay the matter and incur expenses or resources preparing for trial, the Parties have determined that settlement reached is fair and reasonable. Based thereon, the Trustee believes the proposed settlement and compromise is the most expedient and cost effective method for resolving the disputes with the Sukin Parties related to the Property. Furthermore, as the outcome of the disputes with the Sukin Parties would impact the administration of this case through increased litigation costs, approval of the Settlement Agreement will aid the Trustee in preserving assets of the Estate.

1 **C. The Interests of Creditors**

2 The advantageous settlement with the Sukin Parties should be approved as a means of  
3 enhancing the assets of the Estate. The settlement avoids the risk and cost of litigation and  
4 allows the Trustee to preserve assets of the Estate by reducing litigation costs.

5 Although the Trustee believes in the strength of the Estate's case, the Trustee understands  
6 the risks inherent in any litigation. The Trustee would have to litigate the disputes with the  
7 Sukin Parties and respond to any appeal of a judgment that the Trustee may obtain. The issues  
8 involved are complex and would require substantial time and money to resolve. The settlement  
9 avoids costly and risky activities related to litigation of the disputes and results in benefit to the  
10 Estate – i.e., a \$15,000 payment to the Estate representing a carve-out from the lien against the  
11 Property in favor of the Sukin Parties. Absent the settlement, the Estate may receive no benefit  
12 from the Property and the Trustee may likely have to abandon the Estate's interest in the  
13 Property due to the total amount of liens.

14 As the outcome of the disputes with the Sukin Parties would impact the administration of  
15 this case through increased litigation costs, approval of the Settlement Agreement will aid the  
16 Trustee in preserving assets of the Estate.

17 The expenses incurred for continued litigation of the disputes with the Sukin Parties  
18 would most likely exceed any additional benefit that might be achieved. The settlement the  
19 Trustee has reached provides certainty and guaranties the Estate will retain cash from the  
20 Property. Due to the costs of litigation, the amount under the settlement is likely greater than the  
21 Trustee could realize if he was successful in litigating the matter against the Sukin Parties.

22 In summary, the settlement of the disputes with the Sukin Parties is based on good  
23 business judgment that will benefit the Estate and creditors and therefore approval of the  
24 Settlement Motion is proper.

25 **III. COURT MAY AUTHORIZE THE SALE OF THE PROPERTY WHEN THERE IS**

26 **A GOOD FAITH PURCHASER**

27 The Trustee, after notice and hearing, may sell assets of the Estate. Bankruptcy Code  
28 Section 363(b). The standards to establish are that there is a sound business purpose for the sale,

1 that the sale is in the best interests of the estate, i.e., the sale is for a fair and reasonable price,  
2 that there is accurate and reasonable notice to creditors and that the sale is made in good faith. In  
3 re Wilde Horse Enterprises, Inc., 136 B.R. 830, 841 (Bankr. C.D. Cal. 1991); In re Lionel Corp.,  
4 722 F.2d 1063, 1069 (2d Cir. 1983). Business justification would include the need to close a sale  
5 to one of very few serious bidders where an asset has been shopped and a delay could jeopardize  
6 the transaction. See, e.g., In re Crowthers McCall Pattner, Inc., 114 B.R. 877, 885 (Bankr.  
7 S.D.N.Y. 1990) (extreme difficulty finding a buyer justified merger when buyer found). The  
8 Trustee's proposed sale of the Properties meets the foregoing criteria.

9 **A. Sound Business Purpose**

10 The Ninth Circuit in In re Walter, 83 B.R. 14 (Bankr. 9th Cir. 1988) has adopted a  
11 flexible, case by case test to determine whether the business purpose for a proposed sale justifies  
12 disposition of property of the estate under Section 363(b). In Walter, the Ninth Circuit, adopting  
13 the reasoning of the Fifth Circuit in In re Continental Air Lines, Inc., 780 F.2d 1223 (5th Cir.  
14 1986), and the Second Circuit in In re Lionel Corp., 722 F.2d 1063 (2d Cir. 1983), set forth the  
15 following standard to be applied under Bankruptcy Code Section 363(b).

16

17 Whether the proffered business justification is sufficient depends  
18 on the case. As the Second Circuit held in Lionel, the bankruptcy  
19 judge should consider all salient factors pertaining to the  
20 proceeding and, accordingly, act to further the diverse interests of  
21 the debtor, creditors and equity holders, alike. He might, for  
22 example, look to such relevant factors as the proportionate value of  
23 the assets to the estate as a whole, the amount of lapsed time since  
24 the filing, the likelihood that a plan of reorganization will be  
25 proposed and confirmed in the near future, the effect of the  
26 proposed disposition on future plans of reorganization, the  
27 proceeds to be obtained from the disposition vis-a-vis any  
28 appraisals of the property, which of the alternatives of use, sale or  
lease the proposal envisions and, most importantly perhaps,  
whether the asset is increasingly or decreasing in value. This list is  
not intended to be exclusive, but merely to provide guidance to the  
bankruptcy judge.

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26 Walter, supra, at 19-20 [quoting In re Continental Air Lines, Inc., 780 F.2d 1223, 1226 (5th Cir.  
27 1986)].

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28

1 Here, the facts surrounding the sale of the Property pursuant to the terms of the  
2 Settlement Agreement support the Trustee's business decision that the proposed sale is in the best  
3 interests of the Estate and its creditors. Considering that the sale of the Property shall be subject  
4 to the overbid procedures, the Trustee believes the Settlement Agreement to be in the best  
5 interest of the Estate and its creditors and that proposed Settlement Payment is fair and  
6 reasonable under the circumstances of this case.

7 Through the Settlement, it is anticipated that the Estate will generate approximately  
8 \$15,000 in net sale proceeds for the Property. Absent the settlement, the Estate may receive no  
9 benefit from the Property and the Trustee may likely have to abandon the Estate's interest in the  
10 Property due to the total amount of liens.

11 The Settlement Agreement contains no material impediments to competitive bidding for  
12 the Property. The Sukin Parties's Settlement Payment bid is effectively a "stalking horse" bid  
13 which may serve to elicit competitive bids. In the event that an overbid for the Property is  
14 received, a more meaningful distribution to be made on account of unsecured claims may be  
15 possible.

16 The Trustee recognizes that certain creditors of the Estate have asserted that the value of  
17 the Property is higher than what it is being administered for. However, the Debtor extensively  
18 marketed the Property for sale prior to the Trustee's appointment. While the Debtor and other  
19 parties in interest have previously asserted that the Property is worth substantially more, the  
20 reality of this case is that no buyer has stepped forward offering such believed fair market value.

21 Therefore, the Trustee respectfully submits that, if this Court applies the good business  
22 reason standard suggested by the Second Circuit in Lionel, the Settlement Agreement for the  
23 administration of the Property should be approved.

24 **B. The Sale Serves The Best Interests Of the Estate and Creditors**

25 The benefits to the Estate, as set forth above, are tremendous due to the funds to be  
26 generated from the Settlement Agreement. The Trustee does not want to lose this beneficial  
27 business opportunity.

28

1 Thus, the Trustee has made a business decision that it is in the best interest of the  
2 creditors of this Estate that this Sale Motion be approved.

3 **C. Accurate and Reasonable Notice**

4 It is expected that notice of this Settlement Motion will satisfy the requirements for  
5 accurate and reasonable notice and will be appropriate under the circumstances.

6 The Trustee shall provide notice of the proposed administration of the Property pursuant  
7 to the Settlement Agreement to creditors and parties in interest. The Notice of this Settlement  
8 Motion will include a summary of the terms and conditions of the proposed sale, the time fixed  
9 for filing objections, and a general description of the Property. The Trustee submits that the  
10 notice requirements will have been satisfied, thereby allowing creditors and parties in interest an  
11 opportunity to object to the sale. Hence, no further notice should be necessary.

12 **D. The Settlement Agreement Requiring the Transfer of the Property is Made In Good**  
13 **Faith**

14 The proposed transfer of the Property pursuant to the Settlement Agreement sale has been  
15 brought in good faith and has been negotiated on an "arms length" basis.

16 The court, in Wilde Horse Enterprises, set forth the factors in considering whether a  
17 transaction is in good faith. The court stated:

18  
19 'Good faith' encompasses fair value, and further speaks to the  
20 integrity of the transaction. Typical 'bad faith' or misconduct,  
21 would include collusion between the seller and buyer, or any  
22 attempt to take unfair advantage of other potential purchasers. . . .  
23 And, with respect to making such determinations, the court and  
24 creditors must be provided with sufficient information to allow  
25 them to take a position on the proposed sale. (citations omitted)

26 Id. at 842.

27 In the present case, the negotiation of the proposed Settlement Agreement was an arms-  
28 length transaction. The negotiations with the Sukin Parties has resulted in an offer to resolve the  
disputes regarding the Property that will have substantial benefit. As set forth in the Notice of  
the Settlement Motion, the creditors will have been provided with sufficient notice of the  
Settlement Agreement under the circumstances of this case. Accordingly, the Settlement

1 Agreement is in good faith and should be approved. The Trustee shall request such a finding  
2 pursuant to Bankruptcy Code Section 363(m) at the hearing on this Settlement Motion.

3 **IV. TRANSFER OF THE PROPERTY FREE AND CLEAR OF LIENS AND**  
4 **ENCUMBRANCES SHOULD BE PERMITTED**

5 Bankruptcy Code Section 363(f) allows a trustee to sell property of the bankruptcy estate  
6 “free and clear of any interest in such property of an entity,” if any one of the following five  
7 conditions is met:

- 8
- 9 (1) applicable non-bankruptcy law permits a sale of  
such property free and clear of such interest;
  - 10 (2) such entity consents;
  - 11 (3) such interest is a lien and the price at which such  
12 property is to be sold is greater than the aggregate value of all liens  
on such property;
  - 13 (4) such interest is in bona fide dispute; or
  - 14 (5) such entity could be compelled, in a legal or  
15 equitable proceeding, to accept money satisfaction of such interest.

16 Bankruptcy Code Section 363(f).

17 Section 363(f) is written in the disjunctive and thus only one of the enumerated  
18 conditions needs to be satisfied for Court approval to be appropriate.

19 **A. Section 363(f)(2) Consent**

20 The Trustee seeks to transfer the Property pursuant to Bankruptcy Code Section 363(f)(2)  
21 which permits the sale of the Property free and clear of any and all liens, claims, encumbrances  
22 or other interests of record in the Properties, if any, with such liens, claims, encumbrances or  
23 other interests of record to attach to the proceeds of the sale in the same validity and priority as  
24 prior to the closing of the sale transaction.

25 The transfer of the Property is proper pursuant to Section 363(f)(2). The Trustee believes  
26 that secured creditors Irvin and Willie Anderson and the San Luis Obispo County Treasurer and  
27 Tax Collector (collectively the “Secured Parties”) will have no objection to the sale under the  
28 terms set forth herein as their liens will be assumed by the Sukin/Nominee.

1 Courts have approved sales under Bankruptcy Code Section 363(f) even where the sale  
2 price did not exceed the value of the liens asserted on the asset so long as the sale is for fair  
3 market value. In re Terrace Gardens Park Partnership, 96 B.R. 707 (Bankr. W.D. Tex. 1989); In  
4 re Beker Indus. Corp., 63 B.R. 474, 477 (Bankr. S.D.N.Y. 1986). Here, given the overbid  
5 procedures, and the fact that no other buyers have stepped forward during this case, the Trustee  
6 believes that the Property will be administered for its maximum fair market value.

7 **B. Section 363(f)(4) Bona Fide Dispute**

8 Other than the liens of the Secured Parties which are being assumed, under the Settlement  
9 Agreement, the Sukin/Nominee will take title to the Property free and clear of any and all  
10 creditor claims within the Debtor's bankruptcy action including but not limited to writs of  
11 attachments, judgment liens and any other liens whether asserted or not. The Trustee believes  
12 that the transfer of the Property free and clear of liens pursuant to the Settlement Agreement is  
13 also proper under Section 363(f)(4) because bona fide disputes exists with regard to any other  
14 liens that may encumber the Property that are not being assumed by the Sukin/Nominee.

15 **I. THE COURT HAS AUTHORITY TO WAIVE THE TEN-DAY STAY OF THE**  
16 **TRANSACTION UNDER THE SETTLEMENT AGREEMENT**

17 Federal Rule of Bankruptcy Procedure 6004(g) provides that "[a]n order authorizing the  
18 use, sale or lease of property other than cash collateral is stayed until the expiration of 10 days  
19 after entry of the order, unless the Court orders otherwise."

20 The Trustee desires to close the Settlement Agreement as soon as practicable after entry  
21 of an order approving the Settlement Agreement so as to not lose this favorable business  
22 opportunity. Accordingly, the Trustee requests that the Court in the discretion provided it under  
23 Federal Rule of Bankruptcy Procedure 6004(g), waive the ten-day stay of the order approving  
24 the sale of the Settlement Agreement.

25 **V. THE COURT HAS AUTHORITY TO APPROVE THE BIDDING PROCEDURES**

26 Implementation of the bidding procedures is an action outside of the ordinary course of  
27 the business. Bankruptcy Code Section 363(b)(1) provides that a trustee "after notice and  
28 hearing, may use, sell or lease, other than in the ordinary course of business, property of the

1 estate.” Furthermore, under Bankruptcy Code Section 105(a), “[t]he court may issue any order,  
2 process, or judgment that is necessary or appropriate to carry out the provisions of this title.”  
3 Thus, pursuant to Bankruptcy Code Sections 363(b)(1) and 105(a), this Court may authorize the  
4 implementation of overbidding procedures.

5 The Ninth Circuit, in a case under the Bankruptcy Act, recognized the power of a  
6 bankruptcy court to issue orders determining the terms and conditions for overbids with respect  
7 to a sale of estate assets. In re Crown Corporation, 679 F.2d 774 (9th Cir. 1982). The Crown  
8 Corporation court entered an order specifying the minimum consideration required for an  
9 overbid as well as the particular contractual terms required to be offered by overbidders. Id. at  
10 777. The Crown Corporation decision also approves an order requiring and setting the amount  
11 of potential overbidder’s deposits and authorized courts to determine the disposition of such  
12 deposits. Id. While the discussion is not extensive, the Crown Corporation decision recognizes  
13 the authority of bankruptcy courts to order the implementation of bidding procedures such as  
14 those proposed in the present case.

15 a. **The Overbid Procedures Are Untainted by Self-Dealing**

16 The overbid procedures have been proposed in good faith and have been negotiated on an  
17 “arms length” basis. Therefore, there is no prospective taint in dealings between Trustee and any  
18 potential bidders.

19 b. **The Overbid Procedures Encourage Bidding And Are Fair In Amount**

20 The bidding procedures are designed to encourage, not hamper bidding and are  
21 reasonable under the circumstances. The bidding procedures are intended to provide potential  
22 overbidders with adequate information to make an informed decision as to the amount of their  
23 bid and the validity of their bid.

24 c. **The Overbid Procedures Are Fair, Reasonable And Serve The Best Interests Of The**  
25 **Estate**

26 The proposed bidding procedures serve the Estate in several ways. First, the procedures  
27 themselves are fair, reasonable and productive; they will permit the Trustee to conduct an orderly  
28

1 administration of the Property and obtain the best possible price on the best possible terms for  
2 the Property.

3 The bidding procedures will ensure that all bids will be comparable. The Trustee will  
4 determine which bid is the highest and best for the Estate. The comparability requirement of the  
5 bidding procedures will make it possible to accomplish this task.

6 The bidding procedures will help the Trustee to obtain the highest and best possible price  
7 for the Property. The bidding procedures institutes minimum overbid increments which the  
8 Trustee believes are reasonable. Thus, Trustee will be able to obtain substantial benefit for this  
9 Estate from the administration of the Property from competing bids.

10 The bidding procedure requires that potential bidders demonstrate their capacity to  
11 complete the transaction. It would be a serious loss to the Estate if it surrendered its opportunity  
12 to enter into the Settlement Agreement with the Sukin Parties in favor of a competing bidder  
13 only to discover the successful bidder incapable of consummating the transaction. Thus,  
14 requiring bidders to qualify as qualified bidders will protect the Estate from such a loss.

15 The most important benefit of the bidding procedures to the Estate is that their  
16 implementation will enable the consummation of the proposed Settlement Agreement. The  
17 proposed Settlement Agreement will be best way to obtain the maximum and most expedient  
18 recovery for creditors of this Estate. Implementation of the bidding procedures is an essential  
19 component of consummating the Settlement Agreement and maximizing the value of the  
20 Property for the Estate and creditors.

21 The bidding procedures proposed by the Trustee are fair and provide for a "level playing  
22 field" for all prospective bidders. The proposed bidding procedures establish a reasonable but  
23 expeditious timeline for allowing the Trustee to give notice of the proposed Settlement  
24 Agreement and qualified bidders to conduct reasonable due diligence and submit competing  
25 offers, thereby potentially generating additional value for the Estate. Furthermore, the notice that  
26 the Trustee proposes to provide to creditors and parties in interest in connection with the bidding  
27 procedures and Settlement Motion is designed to attract the most interest and is sufficient under  
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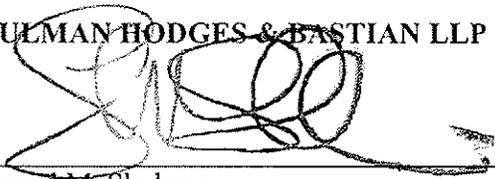
1 the circumstances of this case. Thus, approval of the bidding procedures would serve the best  
2 interests of the Estate and its creditors.

3 **VI. CONCLUSION**

4 In conclusion, the Trustee respectfully submits that settlement of the disputes with the  
5 Sukin Parties is in the best interests of the Estate and creditors and requests that this Honorable  
6 Court enter an order approving the Settlement Motion and for such other and further relief as the  
7 Court deems just and proper.

8 Dated: April 5, 2007

**SHULMAN HODGES & BASTIAN LLP**

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10 \_\_\_\_\_  
11 Leonard M. Shulman  
12 Mark Bradshaw  
13 Attorneys for John M. Wolfe, the Chapter 7 Trustee  
14 for the Bankruptcy Estate of  
15 Professional Business Planning & Research Inc.  
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**DECLARATION OF JOHN M. WOLFE**

I, John M. Wolfe, declare:

1. I am the Chapter 7 Trustee for the bankruptcy estate ("Estate") of Professional Business Planning & Research, Inc., a California corporation ("Debtor"). I have personal knowledge of the facts set forth herein and could, if called as a witness, competently testify thereto.

2. I am familiar with the Debtor's bankruptcy proceeding and make this Declaration in support of my Motion For Order: (1) Approving the Settlement and Compromise of the Adversary Proceeding Between the Estate and Peter J. Sukin, M.D., Inc., Money Purchase Pension Plan, et al., Adv. Case No. SA 06-01094 TA; (2) Approving the Sale of Real Property of the Estate Free and Clear of Certain Liens Pursuant to Bankruptcy Code 363(b)(1) and (f) and Subject to Overbid Procedures Pursuant to the Terms of the Proposed Settlement ("Settlement Motion").

3. The Court's docket indicates that the Debtor filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code on January 14, 2004 ("Petition Date").

4. Pursuant to the Application for Order Approving Appointment of Chapter 11 Trustee and Fixing Bond; and Order Thereon filed by the Office of the United States Trustee ("UST") and approved by the Court by Order entered July 14, 2004, the UST appointed me as the Chapter 11 Trustee for the Estate.

5. I determined that administration of the case did not require the Debtor to remain in a Chapter 11 proceeding. As such, upon my Motion, and pursuant to Court Order entered July 20, 2006 ("Conversion Date"), the case was converted to a Chapter 7 proceeding.

6. Debtor's records indicate that the Debtor was formed and organized as a corporation by Rodney C. Miles ("Miles") on or about October 12, 1977 and that Miles was the sole shareholder of the Debtor at all times from and after its inception.

7. The Debtor's Bankruptcy Schedules indicated that as of the Petition Date, the Debtor had an interest in certain parcels of vacant land located in Cayucos, California including a parcel located at 3330 Gilbert Avenue, California, APN 064-427-083 ("Property").

1 8. Pursuant to Court order, I was authorized to employ a real estate agent to market  
2 the Property, but has not received any offer for the purchase of the Property which exceeds the  
3 amount of the liens of record against the Property. The most recent offer for the Property was  
4 \$160,000 and set forth in the chart below, the Property is encumbered by liens totaling at least  
5 \$361,500:

Lienholder	Approximate Amount
First priority lien in favor of Irvin and Willie Anderson	\$70,000.00
San Luis Obispo County Treasurer and Tax Collector for real property taxes	\$16,500.00
Peter J. Sukin, M.D., Inc., Money Purchase Plan and Peter J. Sukin, Trustee (collectively "Sukin" or the Sukin Parties")	\$275,000.00
Total	\$361,500.00

13  
14 9. In its Bankruptcy Schedule D, the Debtor listed the secured claim of the Sukin  
15 Parties as contingent, disputed and unliquidated and further indicated that the debt owed to the  
16 Sukin Parties was not an obligation of the Estate, but rather an obligation of Miles.

17 10. I have alleged that prior to the Transfer (defined below), the Sukin Parties were  
18 unsecured creditors of Miles. I have further alleged that Sukin Parties are not creditors of the  
19 Estate.

20 11. I alleged that on or about March 21, 2001, Miles caused the Debtor to transfer its  
21 interest in the Property to a Miles' entity known as RCMARM, Inc. I further alleged that on or  
22 about April 26, 2001, Miles on behalf of himself and/or RCMARM, Inc. caused the Property to  
23 be encumbered by a lien in favor of the Sukin Parties ("Transfer").

24 12. I alleged that the Sukin Parties did not provide value to the Debtor in exchange  
25 for acquiring their interest in the Property. Finally, I alleged that on or about July 30, 2002,  
26 Miles caused RCMARM, Inc. to transfer its interest in the Property, now encumbered by a lien  
27 in favor of the Sukin Parties, back to the Debtor for no consideration.

28

1           13.     Based on the foregoing allegations, on or about November 11, 2006, with the  
2 assistance of counsel I filed an "Amended Complaint For: (1) Avoidance of Intentional  
3 Fraudulent Transfers; (2) Avoidance of Constructive Fraudulent Transfers; and (3) Recovery of  
4 Avoided Transfers" against the Sukin Parties ("Amended Complaint").

5           14.     The Sukin Parties have denied my allegations set forth in the Amended Complaint  
6 and have filed an Answer thereto denying that I can recover under any legal theory. The Sukin  
7 Parties maintain, among other things, that they did provide value in exchange for acquiring their  
8 interest in the Property and that their lien on the Property is valid and fully enforceable.

9           15.     I determined that the costs to litigate the avoidance lawsuit against the Sukin  
10 Parties will likely outweigh any additional recovery the Estate might achieve if I were to  
11 continue with litigation to recover the full amount of the Transfer. As such, in order to eliminate  
12 the need for costly litigation, subject to Court approval, the Sukin Parties and I have entered into  
13 a certain Settlement Agreement, a true and correct copy of which is attached hereto as  
14 **Exhibit A.**

15           16.     The Settlement Agreement specifically provides that I provide notice of the  
16 settlement in part as a sale, subject to overbid, in case there is any party interest that can and will  
17 offer more overall compensation for the purchase of the Property than is contemplated by the  
18 settlement. Accordingly, in order to obtain the highest and best offer for the benefit of the  
19 creditors of this Estate, I also seek Court approval of the bidding procedures described in the  
20 Settlement Motion.

21           17.     The bidding procedures described in the Settlement Motin will provide for an  
22 orderly completion of the sale of the Property and insures that potential overbidders are provided  
23 with full disclosure as to the overbid procedures and the specific Property to be sold. By having  
24 all bidders compete on similar terms, the interested parties and the Court may compare  
25 competing bids in order to realize the highest benefit for the Estate. Thus, I am requesting that  
26 the Court approve the overbid procedures as a fair and reasonable method of realizing the highest  
27 and best price for the Property for the benefit of this Estate's creditors.

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1 18. I believe that good cause exists to approve the proposed settlement based on the  
2 following:

3 • Although I believe in the strength of the Estate's case, I understand the risks  
4 inherent in any litigation. I would have to litigate the disputes with the Sukin Parties and  
5 respond to any appeal of a judgment that I may obtain. The issues involved are complex and  
6 would require substantial time and money to resolve. The settlement avoids costly and risky  
7 activities related to litigation of the disputes and results in benefit to the Estate – i.e., a \$15,000  
8 payment to the Estate representing a carve-out from the lien against the Property in favor of the  
9 Sukin Parties. Absent the settlement, the Estate may receive no benefit from the Property and I  
10 may likely have to abandon the Estate's interest in the Property due to the total amount of liens.

11 • As the outcome of the disputes with the Sukin Parties would impact the  
12 administration of this case through increased litigation costs, approval of the Settlement  
13 Agreement will aid in preserving assets of the Estate.

14 • The expenses incurred for continued litigation of the disputes with the Sukin  
15 Parties would most likely exceed any additional benefit that might be achieved. The settlement  
16 reached provides certainty and guaranties the Estate will retain cash from the Property. Due to  
17 the costs of litigation, the amount under the settlement is likely greater than I could realize if I  
18 was successful in litigating the matter against the Sukin Parties.

19 • I recognize that certain creditors of the Estate have asserted that the value of the  
20 Property is higher than what it is being administered for under the Settlement Agreement.  
21 However, the Debtor extensively marketed the Property for sale prior my appointment in this  
22 case. While the Debtor and other parties in interest have previously asserted that the Property is  
23 worth substantially more, the reality of this case is that no buyer has stepped forward offering  
24 such believed fair market value.

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19. In summary, the settlement of the disputes with the Sukin Parties is based on good business judgment that will benefit the Estate and creditors and therefore approval of the Settlement Motion is proper.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed at Irvine, California on April 4, 2007.

  
John M. Wolfe

**EXHIBIT A**

**Settlement Agreement**

SETTLEMENT AGREEMENT

This Settlement Agreement (the "Agreement") is entered into by and between John M. Wolfe, the Chapter 7 Trustee ("Trustee") for the bankruptcy estate of Professional Business Planning & Research, Inc., ("Debtor") and Peter J. Sukin, M.D., Inc., Money Purchase Pension Plan and Peter J. Sukin, Trustee ("Sukin" or "Defendants") (Trustee and Sukin are collectively the "Parties"). This Agreement is entered into based upon the following recitation of facts:

## I.

RECITALS

A. Debtor was formed and organized as a corporation by Rodney C. Miles ("Miles") on or about October 12, 1977.

B. The Parties are informed that Miles was the sole shareholder of the Debtor at all times from and after its inception.

C. One of the Debtor's assets is real property located at 3330 Gilbert Avenue, Cayucos, California, APN 064-427-083 (the "Property").

D. The Trustee has been authorized by the Court to employ a real estate agent to market the Property, but has not received any offer for the purchase of the Property which exceeds the amount of the liens of record. The most recent offer for the Property was \$160,000.

E. The Property is encumbered by a first priority lien in favor of Irvin and Willie in the approximate amount of \$70,000.

F. The Property is encumbered by a tax lien for the county of San Luis Obispo in the approximate amount of \$16,500.

G. The Property is allegedly encumbered by a secured lien in the amount of approximately \$275,000 in favor of Defendants.

H. The Debtor's Schedule D – Creditors Holding Secured Claims – lists Sukin as a secured creditor with a claim that is contingent, disputed and unliquidated. The Debtor's

Schedule D further provides that the debt to Sukin is not owed by the Debtor, but rather by Miles.

I. The Trustee has alleged that prior to the Transfer (defined below), the Defendants were unsecured creditors of Miles. The Trustee has further alleged that Defendants are not creditors of the Debtor's Estate.

J. The Trustee alleged that on or about March 21, 2001, Miles caused the Debtor to transfer its interest in the Property to Miles' entity, RCMARM, Inc. The Trustee further alleged that on or about April 26, 2001, Miles on behalf of himself and/or RCMARM, Inc. caused the Property to be encumbered by a lien in favor of the Defendants (the "Transfer").

K. The Trustee alleged that the Defendants did not provide value to the Debtor in exchange for acquiring their interest in the Property. Finally, the Trustee alleged that on or about July 30, 2002, Miles caused RCMARM, Inc. to transfer its interest in the Property, now encumbered by a lien in favor of Defendants, back to the Debtor for no consideration.

L. On or about November 11, 2006, the Trustee filed an "Amended Complaint For: 1) Avoidance of Intentional Fraudulent Transfers; 2) Avoidance of Constructive Fraudulent Transfers; and 3) Recovery of Avoided Transfers" (the "Amended Complaint").

M. The Defendants have denied the Trustee's allegations above and have filed an Answer to the Trustee's Amended Complaint denying the same allegations. The Defendants maintain, among other things, that they did provide value to the Debtor in exchange for acquiring their interest in the Property and that their lien on the Property is valid and fully enforceable.

N. In order to eliminate the need for costly litigation, the Trustee and Sukin desire to settle and resolve any and all disputes, claims, actions, causes of action, demands and damages regarding the Transfer and regarding the Property.

////

////

WHEREFORE, in consideration of the promises, the mutual obligations and undertakings set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, the Parties agree, subject to Bankruptcy Court approval, as follows:

II.

AGREEMENT

1. The Parties have entered into an agreement wherein Sukin, or his nominee to be appointed by Sukin during an escrow (hereinafter "Sukin/Nominee"), will purchase and obtain fee title to the Property on the following terms and in a transaction all of which will be handled through an escrow company chosen by Sukin/Nominee:

- i. Sukin/Nominee will assume full responsibility for the first Deed of Trust and related promissory note(s) in favor of the Andersons;
- ii. Sukin/Nominee will pay the San Luis Obispo County Treasurer and Tax Collector's claim in the amount in full concurrent with making the Settlement Payment;
- iii. Sukin/Nominee will tender to the Trustee, a check in the amount of \$15,000.00 made payable to John M. Wolfe, Chapter 7 Trustee for the bankruptcy estate of Professional Business Planning & Research Inc., ("Settlement Payment"). The Settlement Payment reflects a carve-out from Sukin's lien against the Property;
- iv. Sukin/Nominee will pay all usual and customary escrow fees, the buyer's title insurance premium, and closing costs;
- v. Subject to payment of those debts and liens referenced in (i) and (ii) above, and payment of the Settlement Payment net of any sums applicable under Paragraph (vi) below, if any, Sukin/Nominee will receive insured

fee title to the Property free and clear of all liens and encumbrances except ongoing property taxes and property tax assessments as may be applicable, and free and clear of any and all creditor claims within Debtor's pending bankruptcy action including but not limited to writs of attachment, judgment liens, and any other liens whether asserted or not;

- vi. Sukin/Nominee will have no obligation to pay any real estate broker commissions or fees; if any such commissions or fee obligations exist regarding this transaction, payment of such commissions or fees will be the sole obligation of the Trustee and be payable from and debited against the Settlement Payment obligation by the escrow officer before distribution of said funds to the Trustee. Should there be a dispute between the Trustee and any real estate broker regarding a commission or fee payable, that dispute will in no way delay or interfere with the remaining obligations and the transfer of title to the Property to Sukin/Nominee as set forth herein;
- vii. Each of the above payments including the Settlement Payment will be delivered at the close of escrow by the escrow officer concurrent with the transfer of fee title to the Property, as described above, to Sukin/Nominee.
- viii. Escrow regarding said transaction will open within ten days following Bankruptcy Court approval of this Agreement.

2. The transfer of insured fee title to the Property to Sukin/Nominee, free and clear of liens and encumbrances except ongoing property taxes and property tax assessments as may be applicable, is an express condition precedent to any payment obligation herein.

3. The Trustee, on behalf of the bankruptcy estate, agrees and stipulates to dismiss the Amended Complaint, with prejudice, with each party to bear its' own costs, within ten (10) days after receipt of the Settlement Payment.

4. The Trustee will notice this settlement in part as a sale subject to overbid in case there is any party interest that can and will offer more overall compensation for the purchase of the Property than is contemplated by this settlement, which purchase value is stipulated to be the combined sum of the first deed of trust at \$70,000, the tax lien of \$16,500, and the Sukin lien of \$275,000, for a total purchase price of \$361,500. It is further agreed and stipulated as a term of this settlement, that in the event of an overbid that results in the purchase of the Property by someone other than Sukin/Nominee, the Trustee stipulates to the validity of the Sukin lien in said amount of \$275,000 and withdraws any and all challenge to the Transfer and agrees to dismiss the Amended complaint, with prejudice.

5. Effective only upon close of the escrow set forth herein whereby title to the Property is transferred to Sukin/Nominee, the Trustee and the Estate, on behalf of themselves, and anyone else claiming by and through them, including without limitation their executors, administrators, insurance companies, predecessors, successors, assigns, agents, servants, employees, corporations, officers, directors, partnerships, partners, associates, attorneys, representatives, principals, joint ventures, parents, trustees, subsidiaries, shareholders, past and present, or anyone else claiming by and through him, if any, do hereby acknowledge full and complete satisfaction of and do hereby fully and forever release and discharge Sukin as well as his executors, administrators, predecessors, successors, assigns, agents, servants, employees, corporations, officers, directors, partnerships, partners, associates, attorneys, representatives, principals, joint ventures, parents, trustees, subsidiaries, affiliates, shareholders, past and present, and each of them (the "Sukin Releasees"), from any and all claims, demands and causes of action of any kind or nature whatsoever, whether known or unknown, suspected or unsuspected,

whether concealed or hidden, which Trustee now owns or holds against the Sukin Releasees, by reason of any matter relating to the Transfer, or the Estate's interest in the Property, including any claims under U.S.C. §§ 544, 547, 548 and 550 and California Civil Code §§ 3439.04, 3439.05 and 3439.07.

6. Effective only upon close of the escrow set forth herein whereby title to the Property is transferred to Sukin/Nominee, Sukin, on behalf of himself, his executors, administrators, insurance companies, predecessors, successors, assigns, agents, servants, employees, corporations, officers, directors, partnerships, partners, associates, attorneys, representatives, principals, joint ventures, parents, trustees, subsidiaries, shareholders, past and present, or anyone else claiming by and through them, does hereby acknowledge full and complete satisfaction of and does hereby fully and forever release and discharge the Trustee, the estate and any of Trustee's executors, administrators, predecessors, successors, assigns, agents, servants, employees, officers, directors, partnerships, partners, associates, attorneys, representatives, principals, past and present, and each of them (the "Trustee Releasees"), from any and all claims, demands and causes of action of any kind or nature whatsoever, whether known or unknown, suspected or unsuspected, whether concealed or hidden, which Sukin now owns or holds against the Trustee Releasees.

7. It is a condition hereof, and it is the intention of the Parties hereto in executing this Agreement and in giving the Releases set forth herein, that the same shall be effective as a bar to each and every claim, demand, and cause of action, matter or thing specified; and in furtherance of this specific intention, the Parties hereby expressly waive any and all rights and benefits conferred upon them by the provisions of Section 1542 of the California Civil Code which provides:

**A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.**

8. The Parties agree that they will execute any and all further and additional documents and take all further and additional steps, which may be necessary or convenient to consummate the terms of this Agreement and accomplish the purposes thereof.

9. This Agreement contains the entire agreement of the Parties, and no representations, warranties, inducements or promises not included herein by express provision or contained in a document or instrument identified herein and executed contemporaneously herewith shall be binding on any party hereto.

10. This Agreement may be executed and delivered in counterparts, each of which shall constitute an original and of which together shall constitute one and the same Agreement.

11. This Agreement shall be binding on the Parties hereto when each such party has executed at least one counterpart, subject only to Bankruptcy Court approval.

12. Each individual executing this Agreement on behalf of a corporation, partnership, trust, or other entity represents that he is duly authorized to execute and deliver this consent on behalf of the corporation or entity and agrees to deliver evidence of his or her authority if requested by the other party.

13. The undersigned hereby represent and warrant that they each are duly authorized to take all actions on behalf of their respective entities as contemplated in this Agreement, including, providing the releases set forth herein.

14. If the Bankruptcy Court does not approve this Agreement, then this Agreement and the releases described herein shall be deemed null and void and of no further effect.

15. The Parties expressly warrant and represent to each other that they have not transferred or assigned, or have caused to be transferred or assigned, to any other person or entity, any of the rights, claims or causes of action which Trustee has had against Sukin, or any of the rights, claims or causes of action which Sukin may have against Trustee or the estate.

16. The Trustee shall cause appropriate notice thereof to be given to parties entitled to such notice under the United States Bankruptcy Code and Federal Rules of Bankruptcy Procedure and pursuant to Bankruptcy Court Order.

17. This Agreement is conditioned upon and shall become final upon the entry of an order authorizing the Trustee to enter into it and approving the terms set forth herein.

18. This Agreement is made pursuant to, and shall be governed by and construed in accordance with the laws of the State of California and the United States Bankruptcy Code.

19. It is the belief of the Parties that this Agreement does not contain any provision contrary to law. However, if any provision of this Agreement, or portion thereof, shall be determined to be illegal, invalid, or unenforceable, that provision (or portion thereof) shall be severed and the remaining parts shall be valid and enforceable, so long as the remaining parts continue to fulfill the original intent of the Parties and there is no material failure of consideration.

20. Should any dispute arise regarding this Agreement, the United States Bankruptcy Court for the Central District of California shall have exclusive jurisdiction to resolve any such disputes.

Dated: March \_\_, 2007

---

Peter Sukin, Trustee for the Peter J. Sukin M.D.,  
Inc., Money Purchase Pension Plan

Dated: March \_\_, 2007

---

John M. Wolfe  
Trustee for the Bankruptcy Estate of Professional  
Business Planning & Research Inc.

16. The Trustee shall cause appropriate notice thereof to be given to parties entitled to such notice under the United States Bankruptcy Code and Federal Rules of Bankruptcy Procedure and pursuant to Bankruptcy Court Order.

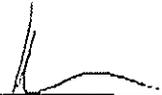
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Dated: ~~March~~ April 5, 2007

  
Peter Sukin, Trustee for the Peter J. Sukin M.D., Inc., Money Purchase Pension Plan

Dated: March 29, 2007

  
John M. Wolfe  
Trustee for the Bankruptcy Estate of Professional Business Planning & Research Inc

8  
Dr. W. Carter & Professional Business Planning & Research Inc. - Sukin, Peter J. Agreement 2007.03.29

16. The Trustee shall cause appropriate notice thereof to be given to parties entitled to such notice under the United States Bankruptcy Code and Federal Rules of Bankruptcy Procedure and pursuant to Bankruptcy Court Order.

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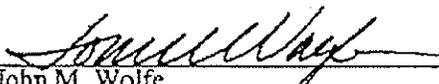
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20. Should any dispute arise regarding this Agreement, the United States Bankruptcy Court for the Central District of California shall have exclusive jurisdiction to resolve any such disputes.

Dated: March \_\_, 2007

\_\_\_\_\_  
Peter Sukin, Trustee for the Peter J. Sukin M.D.,  
Inc., Money Purchase Pension Plan

Dated: March ~~28~~, 2007

  
\_\_\_\_\_  
John M. Wolfe  
Trustee for the Bankruptcy Estate of Professional  
Business Planning & Research Inc.

APPROVED AS TO FORM:

SCHANZ ACROMITE LLP

Dated: March \_\_, 2007

By:

  
William L. Schanz  
Attorneys for Defendants, Peter J. Sukin and the  
Peter J. Sukin M.D., Inc., Money Purchase Pension  
Plan

SHULMAN HODGES & BASTIAN LLP

Dated: <sup>April 5</sup> ~~March~~ \_\_, 2007

By:

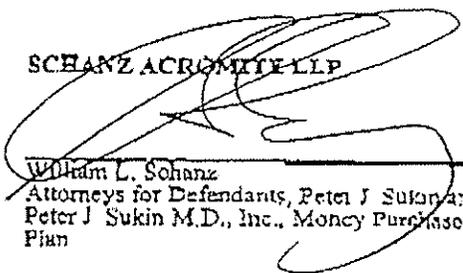
  
Mark Bradshaw  
Attorneys for John M. Wolfe, Chapter 7 Trustee  
For the Bankruptcy Estate of Professional  
Business Planning & Research Inc.

APPROVED AS TO FORM:

April 5  
Dated, March 20, 2007

SCHANZ ACROMITE LLP

By:

  
William L. Schanz  
Attorneys for Defendants, Peter J Sutor and the  
Peter J Sukin M.D., Inc., Money Purchase Pension  
Plan

SHULMAN HODGES & BASTIAN LLP

Dated: March 20, 2007

By:

Mark Bradshaw  
Attorneys for John M. Wolfe, Chapter 7 Trustee  
For the Bankruptcy Estate of Professional  
Business Planning & Research Inc

**PROOF OF SERVICE**

**STATE OF CALIFORNIA, COUNTY OF ORANGE**

I am employed in the City of Foothill Ranch, County of Orange, State of California. I am over the age of 18 years and not a party to the within action. My business address is 26632 Towne Centre Drive, Suite 300, Foothill Ranch, California 92610.

On April 3, 2007, I served the documents named below on the parties as follows:

DOCUMENT(S) SERVED:           **CHAPTER 7 TRUSTEE'S NOTICE OF MOTION AND MOTION FOR ORDER:**

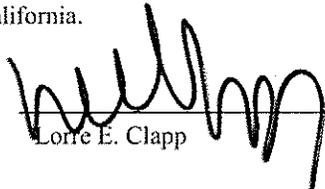
- (1) **APPROVING THE SETTLEMENT AND COMPROMISE OF THE ADVERSARY PROCEEDING BETWEEN THE ESTATE AND PETER J. SUKIN, M.D., INC., MONEY PURCHASE PENSION PLAN, ET AL., ADV. CASE NO. SA 06-01094 TA;**
- (2) **APPROVING THE SALE OF REAL PROPERTY OF THE ESTATE FREE AND CLEAR OF CERTAIN LIENS PURSUANT TO BANKRUPTCY CODE 363(b)(1) AND (f) AND SUBJECT TO OVERBID PROCEDURES PURSUANT TO THE TERMS OF THE PROPOSED SETTLEMENT**

**MEMORANDUM OF POINTS AND AUTHORITIES;  
DECLARATION OF JOHN M. WOLFE IN SUPPORT  
THEREOF**

SERVED UPON:                   **SEE THE ATTACHED SERVICE LIST**

- (BY MAIL) I caused each such envelope, with postage thereon fully prepaid, to be placed in the United States mail at Foothill Ranch, California. I am readily familiar with the practice of Shulman Hodges & Bastian LLP for collection and processing of correspondence for mailing, said practice being that in the ordinary course of business, mail is deposited in the United States Postal Service the same day as it is placed for collection. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.
- (BY FEDERAL EXPRESS OR AIRBORNE EXPRESS) I am readily familiar with the practice of Shulman Hodges & Bastian LLP for collection and processing of documents for overnight delivery and know that the document(s) described herein will be deposited in a box or other facility regularly maintained by such overnight delivery company for overnight delivery.
- (FEDERAL) I declare that I am employed in the office of a member of the bar of this court, at whose direction this service was made.

Executed on April 3, 2007, at Foothill Ranch, California.

  
\_\_\_\_\_  
Lorre E. Clapp

## SERVICE LIST

### Debtor

PROFESSIONAL BUSINESS PLANNING &  
RESEARCH, INC.  
PO BOX 6905  
LAGUNA NIGUEL, CA 92607

Returned 1/22/2007, undeliverable

### Chapter 7 Trustee

JOHN M. WOLFE, TRUSTEE  
5450 TRABUCO ROAD  
IRVINE, CA 92620-5704

### Secured Creditor

DAVID B. OKUN M.D. FACP  
A MEDICAL CORPORATION  
24953 PASEO DE VALENCIA  
LAGUNA HILLS, CA 92653

### Creditor Listing

ESTATE OF A.P. BAIMA  
C/O WILLIAM KEELER, JR.  
6051 NORTH FRESNO STREET, SUITE 200  
FRESNO, CA 93710

### Creditor Listing

INTERNAL REVENUE SERVICE  
INSOLVENCY GROUP 3 MAILSTOP 5503  
24000 AVILA ROAD  
LAGUNA NIGUEL, CA 92677

### RFSN- John Imandoust aka Ahmad Imandoust as Trustee of the Imandoust Revocable Trust Dated February 2, 2001

EVANGELINE J. LARSON, ESQ.  
WINTON & LARSON, LLP  
11770 BERNARDO PLAZA COURT, SUITE 255  
SAN DIEGO, CA 92128

### Creditor Listing

PBPR MONEY PURCHASE PLAN  
P.O. BOX 6905  
LAGUNA NIGUEL, CA 92607

### Additional Notice

PETER J SUKIN MD  
TRICOUNTY BEHAVIORAL HEALTH  
9326 MEDICAL PLZ DR STE A  
CHARLESTON, SC 29406-9138

### Schedule D Creditor

COUNTY TAX COLLECTOR  
FRANK L. FREITAS  
ROOM 203 COUNTY GOVERNMENT CENTER  
SAN LUIS OBISPO, CA 93408

### Additional Notice for Debtor - Creditor

#### Listing

PROFESSIONAL BUSINESS PLANNING &  
RESEARCH, INC.  
29441 ANA MARIA  
LAGUNA NIGUEL, CA 92677

#### Interested Party

OFFICE OF THE UNITED STATES  
TRUSTEE  
411 WEST FOURTH STREET, ROOM 9041  
SANTA ANA, CA 92701-4593

#### Creditor Listing

EMPLOYMENT DEVELOP. DEPT.  
BANKRUPTCY GROUP MIC 92E  
P.O. BOX 826880  
SACRAMENTO, CA 94280-0001

#### Schedule E Creditor

FRANCHISE TAX BOARD  
ATTN: BANKRUPTCY - SPECIAL  
PROCEDURES  
P.O. BOX 2952  
SACRAMENTO, CA 95812-2952

#### Creditor Listing

IRVIN AND WILLIE ANDERSON  
4824 BRAYTON PLACE  
LOS ANGELES, CA 90041

### RFSN - David B. Okun and Sheila Reiser- Okun

MARK R. CAMPBELL, ESQ.  
MARK CAMPBELL LAW  
300 SOUTH HARBOR BOULEVARD  
SUITE 700  
ANAHEIM, CA 92805

#### Creditor Listing

PETER J. SUKIN M.D. INC.  
MONEY PURCHASE PENSION PLAN  
27762 FORBES ROAD, SUITE 17  
LAGUNA NIGUEL, CA 92677

#### RFSN

RODNEY C. MILES  
29441 ANA MARIA  
LAGUNA NIGUEL, CA 92677

#### Creditor Listing

SECURITIES AND EXCHANGE  
COMMISSION  
5670 WILSHIRE BLVD., 11TH FLOOR  
LOS ANGELES, CA 90036

### Attorney for Debtor

NICK O'MALLEY, ESQ  
1505 E. 17TH STREET, SUITE 108  
SANTA ANA, CA 92705

### Schedule D Creditor

ANDREW HALL TRUST  
429 AVENIDA VAQUERO  
SAN CLEMENTE, CA 92672

### Creditor Listing

ESTATE OF A. BAIMA  
2051 W. 238TH STREET  
TORRANCE, CA 90501

### Schedule F Creditor

GWEN TAYLOR  
231 WAVE  
LAGUNA BEACH, CA 92651

### Schedule F Creditor

JOHN IMANDOUST  
380 STEVENS AVENUE SUITE 307  
SOLANA BEACH, CA 92075

### Schedule D Creditor

MELLON 1ST BUSINESS BANK  
P.O. BOX 20086  
ENCINO, CA 91416

### Schedule D Creditor

PETER SUKIN RETIREMENT PLAN  
597 ANITA STREET  
LAGUNA BEACH, CA 92651

### Schedule F Creditor

ROSE MILES  
1956 GOLDEN ARROW  
LAS VEGAS, NV 89109

### Schedule D Creditor

VERTOX INC. PLAN  
1313 E. ST. GERTRUDE PLACE  
SANTA ANA, CA 92705

Schedule F Creditor

PAUL COUCHOT, ESQ  
WINTHROP COUCHOT PROFESSIONAL CORP.  
660 NEWPORT CENTER DRIVE, 4TH FLOOR  
NEWPORT BEACH, CA 92660

Attorneys for Peter J. Sukin, M.D., Inc. Money

Purchase Plan

WILLIAM L SCHANZ, ESQ.  
SCHANZ ACROMITE LLP  
31461 RANCHO VIEJO ROAD SUITE 201  
SAN JUAN CAPISTRANO, CA 92675

RETURNED MAIL

RFSN - David B. Okun and Sheila Reiser-Okun

MARK R. CAMPBELL, ESQ.  
MARK CAMPBELL LAW  
444 WEST OCEAN BLVD., SUITE 1400  
LONG BEACH, CA 90802

Returned August 23, 2006, No Such Person. See  
address from the California State Bar

RFSN

RODNEY C. MILES  
P.O. BOX 6905  
LAGUNA NIGUEL, CA 92607

Returned 1/22/2007 -See Street Address Contact  
Information

Former Counsel to the Chapter 11 Trustee

T. EDWARD MALPASS, ESQ  
LAW OFFICES OF T. EDWARD MALPASS  
16148 SAND CANYON AVENUE  
IRVINE, CA 92618

Attorneys for Vertox, et al.

LARRY E. DUFFY, JR., ESQ.  
WALSWORTH FRANKLING BEVINS &  
MCCALL  
1 CITY BLVD WEST FIFTH FLOOR  
ORANGE, CA 92868-3677

Schedule F Creditor

JOHN IMANDOUST  
531 STEVENS AVENUE WEST, SUITE C  
SOLANA BEACH, CA 92075

Returned August 15, 2006, undeliverable -  
See New Address received August 16, 2006

Schedule D Creditor

IRVIN AND WILLIE ANDERSON  
P.O. BOX 50113  
PASADENA, CA 91115

Returned 9/5/2006, undeliverable

Chapter 7 Trustee for the Bankruptcy Estate of

Rodney C. Miles - Interested Party

THOMAS H. CASEY, TRUSTEE FOR  
BANKRUPTCY ESTATE OF RODNEY C. MILES  
C/O LAW OFFICE OF THOMAS H. CASEY, INC.  
22342 AVENIDA EMPRESA, SUITE 260  
RANCHO SANTA MARGARITA, CA 92688

Attorneys for Peter J. Sukin, M.D., Inc. Money

Purchase Plan

WILLIAM L SCHANZ, ESQ.  
SCHANZ ACROMITE LLP  
27762 FORBES ROAD, SUITE 17  
LAGUNA NIGUEL, CA 92677

See New Address Received Via Email 10/4/2006