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 INC., SOUTH BAY HEALTH CENTER
 INC., and Cross-Complainant, SYLVIA
 COX

18
 19 UNITED STATES DISTRICT COURT
 20 NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

21 LEONARD FELD, DDS, a California
 22 corporation; SOUTH BAY DENTAL
 23 SERVICES, INC., a California corporation;
 24 LEONARD FELD, an individual; MARSHALL
 25 CASTLE, an individual; TIM PARKER, an
 26 individual; JANELLE PARKER, an individual,

Plaintiffs,

vs.

27 TRACY HEETER, DDS, an individual, TRACY
 28 K. HEETER, DDS, INC., a California
 corporation; SYLVIA COX, an individual;
 SOUTH BAY DENTAL CENTER, INC., a

) Case No.: C 06-04031-JF
)
) JUDGE JEREMY FOGEL
) COURTROOM 3
)
) **[PROPOSED] ORDER RE**
) **APPOINTMENT OF SPECIAL MASTER**
)
) TRIAL DATE: None Set
) TIME: 9:00 a.m.
) CTRM: 3

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1 California corporation; SOUTH BAY HEALTH)
2 CENTER, INC., a California corporation;)
3 STEVEN SIBLEY, an individual, DINAPOLI &)
4 SIBLEY, and DOES 1 through 50 inclusive,)

5 Defendants.)

6 SYLVIA COX,)

7 Cross-Complainant,)

8 vs.)

9 MARSHALL CASTLE; TIMOTHY PARKER;)
10 LEONARD FELD; LEONARD FELD DDS,)
11 INC.; SOUTH BAY DENTAL SERVICES, INC.;)
12 DENTAL X-RAY AND PHOTOGRAPHY;)
13 DENTECH; DENTECH MARKETING)
14 DIRECTIONS; DENTECH/PARKER)
15 MANAGEMENT; AND ROES 1-20, inclusive,)

16 Cross-Defendants.)

17 Pursuant to Rule 53(a)(1)(B)(ii) of the Federal Rules of Civil Procedure, the Court
18 determines that because of the complex accounting issues involved in this matter, there is good cause
19 for the appointment of Randy Sugarman as a Special Master ("Master")
20 to receive evidence and recommend findings of fact on accounting issues raised by this action
21 including but not limited to:

- 22 1. The amount of funds deposited from December 7, 1999 to June 30, 2000 into the
23 Bank of the West Account No. 015-010967 held in the name of Defendant TRACY
24 K. HEETER, DDS, INC., the source of those funds, the dates those funds were
25 earned and for whose benefit those funds were used;
- 26 2. The amount of funds deposited from December 7, 1999 to June 30, 2000 into the
27 Bank of the West Account No. 015-010975 held in the name of Defendant SOUTH
28 BAY DENTAL CENTER, INC., the source of those funds, the dates those funds

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were earned and for whose benefit those funds were used;

3. The total amount of "Accounts Receivable" collected from December 7, 1999 to June 7, 2000 ("Accounts Receivable" means money due on services performed by Defendants TRACY K. HEETER, DDS, INC. or SOUTH BAY DENTAL CENTER, INC. prior to December 7, 1999);

4. The total amount of "Accounts Receivable" collected from December 7, 1999 to January 27, 2000;

5. The amount of "Accounts Receivable" collected from December 7, 1999 to January 27, 2000 from Insurance Companies;

6. The amount of "Accounts Receivable" collected from December 7, 1999 to January 27, 2000 from individual patients;

7. The total amount of "Accounts Receivable" collected from January 27, 2000 to June 7, 2000;

8. The amount of "Accounts Receivable" collected from January 27, 2000 to June 7, 2000 from Insurance Companies;

9. The amount of "Accounts Receivable" collected from January 27, 2000 to June 7, 2000 from individual patients;

10. Whether the capitation payments received by Defendants TRACY K. HEETER, DDS, INC. or SOUTH BAY DENTAL CENTER, INC. for the period of December 1, 1999 to December 31, 1999, were prorated and, if not, the amount of capitation payments, if any, that should be prorated in favor of Plaintiffs LEONARD FELD, DDS, INC. and SOUTH BAY DENTAL SERVICES, INC. if the Court finds that the capitation payments should be prorated;

11. Whether Defendants TRACY K. HEETER, DDS, INC. or SOUTH BAY DENTAL

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1 CENTER, INC. prior to December 7, 1999 received money for services performed by
2 Plaintiffs LEONARD FELD, DDS, INC or SOUTH BAY DENTAL SERVICES,
3 INC. on or after December 7, 1999 and the amount of such payments received by
4 these Defendants prior to December 7, 1999 for services performed after December 7,
5 1999, by Plaintiffs LEONARD FELD, DDS, INC or SOUTH BAY DENTAL
6 SERVICES, INC ;
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8 12. Whether Plaintiffs LEONARD FELD, DDS, INC or SOUTH BAY DENTAL
9 SERVICES, INC. after December 7, 1999 refunded money to patients and/or their
10 insurers for services previously rendered by Defendants TRACY K. HEETER, DDS,
11 INC. or SOUTH BAY DENTAL CENTER, INC. prior to December 7, 1999 and, if
12 so, the amount, if any, that Defendants TRACY K. HEETER, DDS, INC or SOUTH
13 BAY DENTAL CENTER, INC. should reimburse Plaintiffs LEONARD FELD,
14 DDS, INC or SOUTH BAY DENTAL SERVICES, INC. for said refunds if the
15 Court determines that such refunds are due to these Plaintiffs;
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17 13. Whether funds were paid out of Bank of the West Account No. 015-011684 held in
18 the name of SOUTH BAY DENTAL CENTER, INC. for the benefit of Defendants
19 TRACY HEETER, DDS, TRACY K. HEETER, DDS, INC, SOUTH BAY DENTAL
20 CENTER, INC., and/or Defendant/Cross-Complainant SYLVIA COX or companies
21 owned by them (collectively the "COX Parties") and, if so, the purpose for such
22 payments and the amount of such payments;
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24 14. Whether office expenses paid out of Bank of the West Account No. 015-011684 held
25 in the name of SOUTH BAY DENTAL CENTER, INC. for the period of December
26 1, 1999 to December 31, 1999, were prorated and, if not, the amount of the office
27 expenses paid out of this account for the period of December 1, 1999 to December
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1 31, 1999, that should be prorated against the COX PARTIES if the Court finds that
2 these office expense payments should be prorated;

3 15. Whether funds were paid out of Bank of the West Account No. 015-012658 held in
4 the name of SOUTH BAY DENTAL SERVICES, INC. for the benefit of the COX
5 Parties and, if so, the amount of such payments;

6 16. Whether office expenses paid out of Bank of the West Account No. 015-012658
7 held in the name of SOUTH BAY DENTAL SERVICES, INC. for the period of
8 December 1, 1999 to December 31, 1999, were prorated and, if not, the amount of
9 the office expenses paid out of this account for the period of December 1, 1999 to
10 December 31, 1999, that should be prorated against the COX PARTIES if the Court
11 finds that these office expense payments should be prorated;

12 17. Whether funds were paid out of Bank of the West Account No. 015-013326 held in
13 the name of LEONARD FELD, D.D.S., INC. for the benefit of the COX Parties and,
14 if so, the amount of such payments;

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19 All expenses incurred by the Master shall initially be borne one-half (1/2) by Plaintiffs
20 LEONARD FELD, DDS; SOUTH BAY DENTAL SERVICES, INC. and Plaintiffs and Cross-
21 Defendants LEONARD FELD; MARSHAL CASTLE and TIMOTHY PARKER (collectively the
22 "FELD Parties"); and one-half (1/2) by the COX Parties.
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25 The Court retains discretion to reapportion the Master's fees and costs upon the completion
26 of his report. The Master's compensation shall be calculated at a rate of \$425.⁰⁰ per hour.
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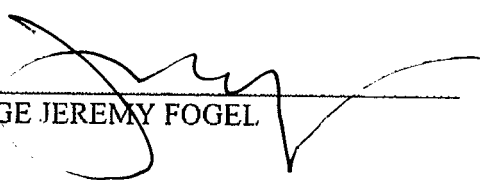
1 Upon receiving notice of the appointment, the Master shall proceed with performing his or
2 her duties under this order with all reasonable diligence.
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5 In performing the duties described in this order, the Master may regulate all proceedings
6 before him and take all appropriate measures to receive evidence and make the required findings in a
7 fair and efficient manner. In performing his duties, if after receiving evidence from the parties, the
8 Master is unable to make a determination on any aspect the accounting issues raised he shall so
9 specifically state this in his report.
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12 The Master shall within 60 days from his appointment file with the Court and serve on the
13 parties his recommended findings and if additional time is required, the Master shall request such
14 additional time from the Court.
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16 Upon service of the Master's recommendations, the parties shall have 20 days in which to file
17 objections or motions to modify the Master's recommendations.
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20 Dated: 10/2/09
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JUDGE JEREMY FOGEL