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U.S. DISTRICT COURT  
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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION

SECURITIES AND EXCHANGE  
COMMISSION,  
  
Plaintiff,  
  
v.  
  
D.W. HEATH & ASSOCIATES, INC.;  
PRIVATE CAPITAL MANAGEMENT,  
INC.; PRIVATE COLLATERAL  
MANAGEMENT, INC.; PCM FIXED  
INCOME FUND I, LLC; DANIEL  
WILLIAM HEATH; AND DENIS  
TIMOTHY O'BRIEN,  
  
Defendants.

Case No. CV 04-02949 JFW (Ex)  
**[PROPOSED] FINAL  
JUDGMENT OF  
DISGORGEMENT AND  
OTHER EQUITABLE AND  
LEGAL RELIEF AGAINST  
DEFENDANTS D.W. HEATH &  
ASSOCIATES, INC., PRIVATE  
CAPITAL MANAGEMENT,  
INC., PRIVATE COLLATERAL  
MANAGEMENT, INC., AND  
PCM FIXED INCOME FUND I,  
LLC**

Plaintiff Securities and Exchange Commission ("Commission"), having  
filed and served a Summons and Complaint upon defendants D.W. Heath &  
Associates, Inc., Private Capital Management, Inc., Private Collateral  
Management, Inc., and PCM Fixed Income Fund I, LLC (collectively the  
"Defendants"), and the Defendants having admitted service upon them of the  
Summons and Complaint in this action; having admitted the jurisdiction of this  
Court over them and over the subject matter of this action; having been fully  
advised and informed of their rights to a judicial determination of this matter

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1 having waived the entry of findings of fact and conclusions of law; having  
2 consented to the entry of this Final Judgment of Disgorgement and Other  
3 Equitable and Legal Relief Against Defendants D.W. Heath & Associates, Inc.,  
4 Private Capital Management, Inc., Private Collateral Management, Inc., and PCM  
5 Fixed Income Fund I, LLC ("Final Judgment"); and it appearing that no notice of  
6 hearing upon the entry of this Final Judgment being necessary; and the Court  
7 being fully advised in the premises, and there being no just reason for delay:

8 **I.**

9 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that pursuant  
10 to one or more plans of distribution to be submitted by Robb Evans, the Court-  
11 appointed Receiver of D.W. Heath & Associates, Inc., Private Capital  
12 Management, Inc., Private Collateral Management, Inc., and PCM Fixed Income  
13 Fund I, LLC, served on the Commission, and to be approved by the Court, the  
14 Defendants shall disgorge all of the funds and assets of the Defendants' estates,  
15 less Court-approved fees and expenses, to the Court-appointed Receiver, Robb  
16 Evans.

**II.**

17 IT IS ORDERED, ADJUDGED AND DECREED that the Defendants shall  
18 provide all documents in their possession, custody or control to the Commission  
19 and disclose under oath all information with respect to their activities and the  
20 activities of others about which the Commission or its staff may inquire or request.  
21 Such production of documents and disclosure of information by the Defendants  
22 shall be made upon reasonable notice in writing and without service of a subpoena  
23 and subject only to the good faith assertion of any privileges recognizable  
24 pursuant to Rule 501 of the Federal Rules of Evidence or the United States  
25 Constitution and amendments thereto. Failure to comply with the foregoing will  
26 subject the Defendants to the remedies and sanctions set forth in Rule 37 of the  
27 Federal Rules of Civil Procedure and all other available remedies.

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1 **III.**

2 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the  
3 Consent filed concurrently with this Final Judgment is incorporated herein with  
4 the same force and effect as if fully set forth herein and that the Defendants shall  
5 comply with the Consent.

6 **IV.**

7 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the  
8 Court shall retain jurisdiction over this action to implement and enforce the terms  
9 of the Final Judgment and other decrees that may be entered herein and to grant  
10 such other relief as the Court may deem necessary and just.

11 **V.**

12 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that all  
13 other orders of this Court remain in full force and effect including the May 6, 2004  
14 Stipulation and Preliminary Injunction and Orders: (1) Freezing Assets; (2)  
15 Appointing a Permanent Receiver; (3) Prohibiting the Destruction of Documents;  
16 (4) Requiring Accounting until further order of this Court.

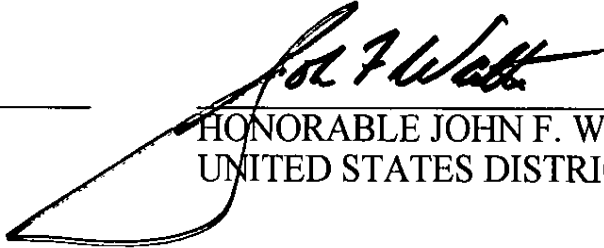
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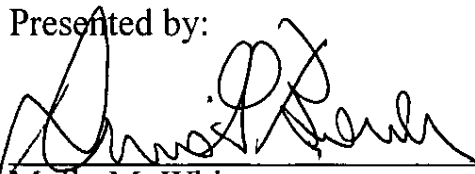
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VI.

There being no just reason for delay, the Clerk of the Court is hereby directed, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, to enter this Final Judgment forthwith and without further notice.

DATED: 2/10/05

  
HONORABLE JOHN F. WALTER  
UNITED STATES DISTRICT JUDGE

Presented by:  
  
Molly M. White  
David S. Brown  
Attorneys for Plaintiff  
Securities and Exchange Commission

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1 **PROOF OF SERVICE**

2 I am over the age of 18 years and not a party to this action. My business address  
3 is:

4  U.S. SECURITIES AND EXCHANGE COMMISSION, 5670 Wilshire  
Boulevard, 11<sup>th</sup> Floor, Los Angeles, California 90036.

5 Telephone: (323) 965-3998 Fax: (323) 965-3908

6 On February 10, 2005, I served the document entitled **[PROPOSED] FINAL**  
7 **JUDGMENT OF DISGORGEMENT AND OTHER EQUITABLE AND**  
8 **LEGAL RELIEF AGAINST DEFENDANTS D.W. HEATH AND**  
9 **ASSOCIATES, INC., PRIVATE CAPITAL MANAGEMENT, INC.,**  
**PRIVATE COLLATERAL MANAGEMENT, INC., AND PCM FIXED**  
INCOME FUND I, LLC upon the parties to this action addressed as stated on the  
attached service list:

10  **OFFICE MAIL:** By placing in sealed envelope(s), which I placed for  
11 collection and mailing today following ordinary business practices. I am  
12 readily familiar with this agency's practice for collection and processing of  
correspondence for mailing; such correspondence would be deposited with  
the U.S. Postal Service on the same day in the ordinary course of business.

13  **PERSONAL DEPOSIT IN MAIL:** By placing in sealed  
14 envelope(s), which I personally deposited with the U.S. Postal  
15 Service. Each such envelope was deposited with the U.S. Postal  
Service at Los Angeles, California, with first class postage thereon  
fully prepaid.

16  **EXPRESS U.S. MAIL:** Each such envelope was deposited in a  
17 facility regularly maintained at the U.S. Postal Service for receipt of  
Express Mail at Los Angeles, California, with Express Mail postage  
18 paid.

19  **PERSONAL SERVICE:** I caused to be personally delivered each such  
envelope by hand to the office of the addressee in the attached service list:

20  **FEDERAL EXPRESS:** By placing in sealed envelope(s) designated by  
21 Federal Express with delivery fees paid or provided for, which I deposited  
in a facility regularly maintained by Federal Express or delivered to a  
22 Federal Express courier, at Los Angeles, California.

23  **FACSIMILE (by agreement of parties only):** By transmitting the  
document by facsimile transmission. The transmission was reported as  
24 complete and without error.

25  **(Federal)** I declare that I am employed in the office of a member of the bar  
of this Court, at whose direction the service was made. I declare under  
26 penalty of perjury that the foregoing is true and correct

27 Date: February 10, 2005

28 *Magnolia M. Marcelo*  
MAGNOLIA M. MARCELO

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1                    **SEC v. D.W. HEATH & ASSOCIATES, INC., et al.**  
2                    **United States District Court - Central District of California**  
3                    **Case No. CV 04-02949 JFW (Ex)**  
4                    **(LA-2581)**

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5                    **SERVICE LIST**

6                    Daniel W. Heath  
7                    Booking No. 200427981  
8                    R.P.D.C.  
9                    P. O. Box 710  
10                    Riverside, CA 92507  
11                    ***In Pro Per***

12                    Barry O. Bernstein, Esq.  
13                    Attorney at Law  
14                    3727 W. Magnolia Boulevard, Suite 767  
15                    Burbank, CA 91505  
16                    Telephone: (818) 558-1717  
17                    Facsimile: (818) 526-7672

18                    Michael A. Oswald, Esq.  
19                    Oswald & Yap, APC  
20                    16148 Sand Canyon Avenue  
21                    Irvine, CA 92618  
22                    Telephone: (949) 788-8900  
23                    Facsimile: (949) 788-8980  
24                    ***Attorney for Defendant Denis Timothy O'Brien***

25                    Attn: Brick Kane  
26                    Robb Evans, Receiver  
27                    Robb Evans & Associates  
28                    11450 Sheldon Street  
29                    Sun Valley, CA 91352-1121  
30                    Facsimile: (818) 768-8802  
31                    ***Court-Appointed Permanent Receiver***

32                    Gary Owen Caris, Esq.  
33                    Lesley Anne Hawes, Esq.  
34                    Frandzel Robins Bloom & Csato, L.C.  
35                    6500 Wilshire Boulevard, 17th Floor  
36                    Los Angeles, CA 90048-4920  
37                    Facsimile: (323) 651-2577  
38                    ***Attorneys for Court-Appointed Receiver Robb Evans***