

THE PRESS-ENTERPRISE COMPANY

800 were bilked, suit says

PROBE: A firm is accused of defrauding investors, many from the Inland area, of \$69.9 million.

May 19, 2004

By DEVONA WELLS / The Press-Enterprise

Regular statements that showed her money steadily growing reassured Darlene Pitts, and so did the lavish Christmas party in Brea.

A 12-piece orchestra serenaded 400 or so investors who ate prime rib and dressed in long gowns, fur wraps and nice suits. Pitts even won a box of chocolates at the event, courtesy of D.W. Heath & Associates - one of four companies now accused of bilking her and more than 800 elderly investors of at least \$69.9 million.

Pitts, who says she was looking for a safe investment, gave the company \$92,000. It was all that the 67-year-old Hemet resident and her husband had in Individual Retirement Accounts and most of their savings.

"We have been very careful all of our life with our money. We had hoped that it would take care of us if one of us got sick," Pitts said.

Assets frozen

The assets of Heath & Associates, along with PCM Fixed Income Fund I, Private Capital Management and Private Collateral Management, were frozen and the companies placed into receivership this month after the Securities and Exchange Commission sued the companies for violating federal securities laws.

The suit also accuses Daniel William Heath, 47, of Chino Hills and Denis Timothy O'Brien, 49, of Yorba Linda, and their companies of running a Ponzi scheme - a fraud that pays earlier investors with money from new ones.

"It's not a Ponzi scheme," said David Bortman, a Beverly Hills attorney representing Heath. "What happened was some of the investments didn't do as well as Mr. Heath had hoped. But any mistakes he made were made in good faith."

The Riverside County District Attorney's office, which is investigating Heath, has served search warrants at offices in Temecula, Hemet, Brea and Pasadena, said Mark Mandio, deputy district attorney. Of a partial list of some 700 investors that Mandio saw, he said 30 percent lived in Riverside County. A smaller number are from San Bernardino County, he said.

Just more than one quarter of money raised made its way back to investors, according to a report by receiver Robb Evans & Associates. Most was spent on loans and investments, which may prove difficult to recover, the report says.

Heath is working with the receiver to get money returned to investors, Bortman said.

"It's a very complicated situation. Mr. Heath is cooperating fully to protect the investors rights," Bortman said.

Neither O'Brien nor his attorney could be reached.

Ponzi scheme charges

These latest Ponzi scheme accusations follow others with Inland ties, including Riverside's MX Factors, which brought in as much as \$55.6 million from investors living in Palm Springs to Corona and is also being sued by the SEC.

Also, Ontario-based businessman Gregory Setser faces laundering and securities fraud charges for running International Product Investment Corp., which the federal government says was a Ponzi scheme that raised \$160 million by targeting Christian ministries.

Investors were lured to Heath & Associates - the servicing and marketing agent of PCM - by the promise of a guaranteed annual return ranging from 5.5 percent to 8 percent on notes said to mature in two to six years, according to the SEC suit. Sales pitches often were given with free meals.

Complimentary dinner

John Brown, 87, learned of Heath & Associates' offering over a complimentary dinner at a Marie Callender's in Hemet. His investment, Brown said he was told at the workshop, would go to finance new doctor and dentist offices.

Brown of Hemet said he put in \$193,000.

"I had my doubts, but I didn't stick with them. I got sucked in," he said.

Heath and O'Brien called themselves financial consultants and said that notes sold to investors were much safer than stocks and bonds, the SEC suit said.

But a memo provided by Heath to Heath & Associates' IRA administrators says that investor funds would be used to make principal and interest payments to other investors, according to the SEC lawsuit.

"Such undisclosed use of investor funds constitutes a Ponzi scheme," the suit says.

Court records say PCM raised \$69.9 million starting in 1996. But a Robb Evans report begins its accounting three years earlier and says investors gave \$144 million to PCM.

Just \$39.6 million, including interest, was repaid to investors, the Evans report says. Out of the remaining funds, \$92.3 million went to outside loans and investments, according to the Evans report. Heath told the receiver that many of the loans were long-term and he was not sure of repayment terms, the report said.

PCM loaned \$2.2 million to the managing partner of the owner of Menifee's Practice Golf Center - a range later sold by Heath, the Evans report says. The sale left \$1.7 million of the original loan in jeopardy, according to the report.

PCM's biggest investment amounted to \$15.8 million in Prestige Resort Development, of which PCM owns 80 percent, the Evans report says. The development company is building The Club at Big Bear Village, a high-end timeshare resort, but has finished just 14 of the 180 units, according to the report.

"There are serious questions regarding the ultimate recovery of the full \$15.8 million investment in this project," the report said.

The SEC suit says that the state Department of Corporations issued two desist and refrain orders against Heath, Heath & Associates and PCM for selling unregistered securities in 1998 - a year before Pitts invested.

She hopes others will be more careful than she was in researching investments.

"I wish we would have looked into it more," she said. "If we ever have any money, I'd lock it in a shoebox. You don't get interest, but at least it's yours."

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