

## Heath figures agree to damages

**FUNDS: Money recovered from Daniel W. Heath and Denis O'Brien would be returned to investors**

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By DEVONA WELLS / The Press-Enterprise

Daniel W. Heath and Denis O'Brien have agreed to pay damages as the Securities and Exchange Commission inches closer to concluding a civil case against the pair, accused of scamming hundreds of Inland investors.

Much of the money, however, might never come through.

"It's just the nature of these cases," said Mike Piazza, regional trial counsel for the commission.



Heath & Associates salesman O'Brien consented to damages of \$2.5 million. Just how much Heath will pay was not detailed in court records filed Monday. The agreements are subject to U.S. District Court approval, which Piazza expects to come in four to eight weeks.

Neither Heath nor O'Brien admitted or denied liability. Both remain jailed on criminal charges of fraud and grand theft. Heath and O'Brien have pleaded not guilty.

In May, the Securities and Exchange Commission sued Heath and O'Brien for violating federal securities laws and accused them of running a Ponzi scheme through Heath & Associates. The firm took about \$178 million from 1,692 investors, according to court-appointed receiver Robb Evans & Associates.

The proposed damages are intended to make each of the men return to investors money they gained from Heath & Associates, but there likely are not enough assets or money to fulfill the orders once they are approved, Piazza said.

The order would empower Robb Evans to pursue payment from third parties who might have benefited from Heath & Associates, Kane said. Though Kane does not believe Heath and O'Brien have hidden any proceeds, the agreement would allow the receiver to seize such funds.

Money that comes in from Heath or O'Brien would be returned to investors using a format U.S. District Court Judge John F. Walter approved Monday. A loss figure will be established for each investor based on the amount invested minus any interest payments. Checks are expected to be sent to investors by June 30, Kane said.

So far, Robb Evans expects to recover close to \$16 million in assets, which would return around 13 cents for every missing investor dollar. Proceeds from liquidated Heath assets will be deducted from any damages he agrees to pay, Kane said.

Agreements between the Securities and Exchange Commission and Heath and O'Brien also prohibit the men from working again as brokers.

Investors were lured to Heath & Associates over free lunches, where the firm pitched annual returns ranging as high as 9.5 percent. The Securities and Exchange Commission says the firm then used money to operate a fraudulent Ponzi scam, paying early investors with money from later ones.

Also on Monday, the judge approved payment of \$455,888 for six months of the receiver's work, which included legal fees, negotiating land sales and reconstructing complicated accounts. Already, Robb Evans was paid \$192,627 for its first two months of work.

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