



U.S. SECURITIES AND EXCHANGE COMMISSION

U.S. Securities and Exchange Commission

Litigation Release No. 18689 / May 3, 2004

FEDERAL, STATE, AND LOCAL LAW ENFORCEMENT HALT \$60 MILLION FRAUDULENT SCHEME TARGETED AT ELDERLY VICTIMS IN SOUTHERN CALIFORNIA

SECURITIES AND EXCHANGE COMMISSION 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 No. CV 04 - 02949JFW(Ex)(C.D. Cal.)

The Securities and Exchange Commission ("Commission") filed an emergency action on April 28th to halt an on-going multi-million dollar securities fraud scheme perpetrated by six Southern California defendants: D.W. Heath & Associates, Inc., Private Capital Management, Inc., Private Collateral Management, Inc., and PCM Fixed Income Fund I, LLC, all with offices in Hemet, Brea and Pasadena; Daniel William Heath, 47, of Chino Hills; and Denis Timothy O'Brien, 49, of Yorba Linda. The Commission alleges that the defendants, who have raised at least \$60 million to date, lured elderly victims to workshops with the promise of a free lunch and then bilked them out of their retirement money by purporting to sell them safe, guaranteed notes. The Commission coordinated its investigation with the United States Postal Inspection Service, the California Department of Corporations, and the Riverside County District Attorney's Office, which late yesterday executed criminal search warrants at the defendants' offices in Hemet, Brea and Pasadena and at Heath's and O'Brien's homes. Also yesterday, U.S. District Judge John F. Walter of the U.S. District Court for the Central District of California issued orders freezing the defendants' assets.

The Commission's complaint, filed in federal court in Los Angeles, alleges that the defendants fraudulently induced at least 803 elderly investors nationwide to invest in PCM notes that purportedly pay a "guaranteed" return of 5.5% to 8% per year. The defendants claim that investor funds will be used to make secured loans to businesses. The defendants also represent that independent IRA administrators conducted "due diligence" on the PCM Notes and that either investors will be repaid their principal at maturity, or they may redeem all or part of their investment before maturity, subject to a 10% penalty. Finally, the defendants claim that PCM and the PCM Fund are California entities.

According to the complaint, these representations are false. There is no evidence that there are any secured loans. The PCM Notes also are not liquid because the defendants have failed to promptly return investor funds. The complaint further alleges that some investors have had to threaten to file, or actually filed, lawsuits against the defendants to get back their money. Nor is it true that IRA administrators have conducted due diligence. Finally, there is no record that either PCM or the PCM Fund are California legal entities.

In its lawsuit, the Commission obtained an order freezing the assets of all defendants (except O'Brien), an accounting, an order preventing destruction of documents, an order expediting discovery, and an order temporarily enjoining all of the defendants from future violations of the securities registration and antifraud provisions of the federal securities laws, Sections 5(a), 5(c) and 17(a) of the Securities Act of 1933 and Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder. The Commission also seeks preliminary and permanent injunctions, and other relief, including disgorgement and civil penalties against all defendants. A hearing to determine whether a temporary receiver should be appointed over Heath & Associates, PCM, Private Collateral Management, and the PCM Fund is scheduled for Monday, May 3, 2004 at 1:30 p.m. A hearing on whether a preliminary injunction should be issued against the defendants and whether a permanent receiver should be appointed is scheduled for May 10 2004, at 1:30 p.m. The Commission acknowledges the California Department of Corporations, the Riverside County District Attorneys' Office and the United States Postal Inspection Service for their assistance in this investigation.

<http://www.sec.gov/litigation/litreleases/lr18689.htm>