



U.S. SECURITIES AND EXCHANGE COMMISSION

U.S. Securities and Exchange Commission

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COMMISSION OBTAINS PRELIMINARY INJUNCTION IN \$60 MILLION SECURITIES FRAUD 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.)

On May 6, 2004, the Securities and Exchange Commission ("Commission") obtained a preliminary injunction in a 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, Temecula, and Pasadena; Daniel William Heath, 47, of Chino Hills; and Denis Timothy O'Brien, 49, of Yorba Linda. The defendants agreed to the entry of the preliminary injunction. The Commission alleges that the defendants, who raised at least \$60 million, 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. U.S. District Judge John F. Walter of the U.S. District Court for the Central District of California also set a hearing on the Commission's application for appointment of a permanent receiver for May 20, 2004.

The Commission's complaint, filed on April 28, 2004, 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.

The Court's Order of May 6, 2004, preliminarily enjoins the defendants from future violations of the 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 Order also freezes the assets of all defendants (except O'Brien), orders an accounting, prevents the destruction of documents, and expedites discovery. The Commission also seeks permanent injunctions, and other relief, including disgorgement and civil penalties against all defendants. The Commission acknowledges the assistance of the Riverside County District Attorneys' Office, the California Department of Corporations, and the United States Postal Inspection Service.

<http://www.sec.gov/litigation/litreleases/lr18703.htm>