



U.S. SECURITIES AND EXCHANGE COMMISSION

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Litigation Release No. 19287 / June 28, 2005

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.)

FINAL JUDGMENTS ENTERED IN COMMISSION ACTION AGAINST SECURITIES FRAUD SCHEME TARGETING ELDERLY VICTIMS IN SOUTHERN CALIFORNIA

The Securities and Exchange Commission announced that final judgments have been entered by the United States District Court in Los Angeles against the defendants in a \$145 million scheme that targeted the elderly. In a complaint filed on April 28, 2004, the Commission alleged that D.W. Heath & Associates, Inc., Private Capital Management, Inc. ("PCM"), Private Collateral Management, Inc., and PCM Fixed Income Fund I, LLC ("PCM Fund"), and two individuals, Daniel William Heath, 48, formerly of Chino Hills, California, and Denis Timothy O'Brien, 50, formerly of Yorba Linda, California, fraudulently induced elderly investors to invest in "secured" notes that paid a "guaranteed" return. The court appointed Robb Evans as permanent receiver over Heath & Associates, PCM, Private Collateral Management, and the PCM Fund.

On March 8, 2005 and May 25, 2005, the District Court entered final judgments of permanent injunction and other relief against O'Brien and Heath, respectively. The judgments enjoin O'Brien and Heath from violating the antifraud provisions of Section 17(a) the Securities Act of 1933 ("Securities Act") and Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") and Rule 10b-5 thereunder, the securities registration provisions of Section 5(a) and 5(c) of the Securities Act, and the broker-dealer registration provisions of Section 15(a) of the Exchange Act. The judgments order O'Brien to disgorge to the receiver \$2,526,157 plus pre-judgment interest of \$34,582, and Heath to disgorge to the receiver \$106,031,605 plus pre-judgment interest of \$3,302,553. O'Brien and Heath consented to the entry of the judgments without admitting or denying the Commission's allegations. On April 4, 2005 and June 24, 2005, the Commission instituted administrative proceedings against O'Brien and Heath, respectively, barring them from association with a broker or dealer based on the entry of final judgments of permanent injunction against them. O'Brien and Heath consented to the entry of the orders without admitting or denying the Commission's findings.

Previously, the District Court entered judgments of permanent injunction and other relief against Heath & Associates, PCM, Private Collateral Management, and the PCM Fund, pursuant to the consent of the receiver. The judgments enjoin the receivership entities from violating the antifraud and securities registration provisions, and specify that pursuant to one or more plans of distribution to be submitted by the receiver to the court, the funds and assets of the receivership estate will be distributed to investors less court-approved fees and expenses.

The final judgment against Heath concludes the Commission's action. Administration of the receivership estate will continue.

In a report to the court, the receiver stated that approximately \$144.8 million was raised from investors through PCM and the PCM Fund, and of that amount, approximately \$39.6 million in principal and interest was returned to investors.

According to the receiver's report, over the life of the company, PCM suffered a net loss of about \$41.8 million and earned only \$1 million in total income.

On July 1, 2004, the Riverside County District Attorney's Office arrested Heath, O'Brien, John William Heath, formerly of Covina, California, and Larre Jaye Schlarmann, formerly of Carlsbad, California. They have been charged with multiple felony counts, including selling unqualified securities, selling securities by misrepresentation, violating a court order to desist and refrain from selling securities, elder abuse, grand theft, burglary, and money laundering. All four men are in custody awaiting a preliminary hearing. Bail was set at \$144 million for each individual. The Riverside DA's Office also obtained asset freezes against Heath, O'Brien, John William Heath, and Schlarmann. Robb Evans was appointed receiver in the criminal action.

The Commission wishes to acknowledge and thank the Riverside County District Attorney's Office for their assistance in this matter.

For further information, see Litigation Release Nos. 18689 (May 3, 2004), 18703 (May 11, 2004), 18724 (May 24, 2004), and 18777 (July 9, 2004), and Administrative Proceeding Release Nos. 34-51473 (April 4, 2005) and 34-51922 (June 24, 2005).

<http://www.sec.gov/litigation/litreleases/lr19287.htm>