

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 8838 / September 5, 2007

SECURITIES EXCHANGE ACT OF 1934
Release No. 56353 / September 5, 2007

ADMINISTRATIVE PROCEEDING
File No. 3-12745

In the Matter of

MARTIN S. DUFFIELD
and RAUL A. JORDAN,

Respondent.

**ORDER INSTITUTING
ADMINISTRATIVE AND CEASE-AND-
DESIST PROCEEDINGS, MAKING
FINDINGS, AND IMPOSING REMEDIAL
SANCTIONS AND A CEASE-AND-DESIST
ORDER PURSUANT TO SECTION 8A OF
THE SECURITIES ACT OF 1933 AND
SECTIONS 15(b) AND 21C OF THE
SECURITIES EXCHANGE ACT OF 1934**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 8A of the Securities Act of 1933 (“Securities Act”) and Sections 15(b) and 21C of the Securities Exchange Act of 1934 (“Exchange Act”) against Martin S. Duffield and Raul A. Jordan (“Respondents”).

II.

In anticipation of the institution of these proceedings, the Respondents have each submitted an Offer of Settlement (the “Offer”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over them and the subject matter of these proceedings, which are admitted, Respondents consent to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings, Making Findings, and Imposing Remedial

Sanctions and a Cease-and-Desist Order Pursuant to Section 8A of the Securities Act of 1933 and Sections 15(b) and 21C of the Securities Exchange Act of 1934, as set forth below.

III.

On the basis of this Order and Respondents' Offers, the Commission finds that:

Summary

These proceedings arise out of the offer and sale of promissory notes as part of a fraudulent scheme orchestrated by Daniel W. Heath through his company, D.W. Heath & Associates, Inc. ("Heath & Associates"). From 1996 until late April 2004, Heath & Associates, through sales agents such as Respondents Martin S. Duffield and Raul A. Jordan, raised over \$138 million from more than 1,400 investors nationwide, most of whom were senior citizens, in an unregistered notes offering in two Heath-controlled entities, Private Capital Management, Inc. ("PCM") and the PCM Fixed Income Fund I, LLC ("PCM Fund") (collectively "PCM Notes"). Respondents offered and sold more than \$6 million in PCM Notes to approximately 80 investors. Respondents made material misstatements and omitted material facts in selling the notes. First, Respondents falsely represented that the PCM Notes were "safe" and "secured" because they were "backed by assets" owned by companies that borrowed funds from PCM, and that returns were "guaranteed." Second, they failed to disclose that they were paid a sales commission by Heath & Associates, or falsely claimed that they received no commission at all or misled prospective investors about the sources of the funds used to pay their commissions. Third, Respondents failed to disclose that in March 1998, the California Department of Corporations ("DOC") had issued two desist-and-refrain orders against Heath, Heath & Associates, PCM, and the PCM Fund for the unregistered sale of securities and for acting as unregistered broker-dealers ("D&R Orders"). During the relevant period, Respondents were associated with registered broker-dealers and sold the PCM Notes without notice to or approval from those firms, and thereby engaged in the practice of selling away.

Respondents

1. Martin S. Duffield ("Duffield") was a senior financial consultant with Heath & Associates from July 2001 to April 2004. From January 2000 to June 2004, Duffield was also a registered representative associated with broker-dealers registered with the Commission. Duffield, 51 years old, is a resident of West Covina, California.

2. Raul A. Jordan ("Jordan") was a senior financial consultant with Heath & Associates from July 2001 to April 2004. From January 2000 to December 2002, Jordan was also a registered representative associated with broker-dealers registered with the Commission. Jordan, 51 years old, is a resident of Pasadena, California.

Relevant Entities

3. Heath & Associates, incorporated in California in 1998, purported to be a financial services company that provided investment advice and estate planning services to senior citizens. Heath & Associates' principal places of business were Brea, California and Hemet, California. It was the servicing agent and marketing agent for PCM and the placement and service agent for the PCM Fund. On March 30, 1998, the DOC issued two desist-and-refrain orders against Heath & Associates, Heath, PCM, and the PCM Fund for the unregistered sale of securities and for acting as unregistered broker-dealers. Heath & Associates was not registered with the Commission. Heath & Associates was placed under a court-ordered receivership in *SEC v. D.W. Heath & Associates, Inc., et al.*, Civil Action No. CV-04-02949 JFW (Ex) (C.D. Cal.), Litigation Release No. 18689 (May 3, 2004).

4. PCM, a business entity of unknown form, was a fictitious business name for Daniel W. Heath, who was its co-founder, president, chief executive officer, and chief financial officer. PCM was purportedly the general manager of the PCM Fund. PCM was not registered with the Commission, and no registration statement had been filed or was in effect with respect to the notes offered by PCM. PCM was placed under a court-ordered receivership in *SEC v. D.W. Heath & Associates, Inc., et al.*

5. PCM Fund, a business entity of unknown form, was another fictitious business name for Daniel W. Heath. The PCM Fund was not registered with the Commission, and no registration statement had been filed or was in effect with respect to the notes offered by the PCM Fund. The PCM Fund was placed under a court-ordered receivership in *SEC v. D.W. Heath & Associates, Inc., et al.*

Background

6. From July 2001 to April 2004, Duffield and Jordan offered and sold over \$6 million in PCM Notes to approximately 80 elderly investors who had attended free lunch workshops sponsored by Heath & Associates. At the workshops, Duffield and Jordan explained the benefits of investing in corporate notes that were secured or backed by assets. They compared the notes to a home mortgage, where the lender can foreclose on the property if the borrower defaults. They told prospective investors that corporate notes were much safer than stocks and bonds, did not fluctuate in price, and paid a much higher rate of return than bank certificates of deposit. After the presentations, Duffield and Jordan encouraged the attendees to sign up for a complimentary one-on-one consultation.

7. During these one-on-one consultations, Duffield and Jordan met with prospective investors at an office opened under the name Heath & Associates in Pasadena, California, and they handed out business cards that said each was a Heath & Associates "senior financial consultant." Although prospective investors expected to receive a free financial check-

up at these consultations, the real purpose of the meetings was to solicit them to invest in the PCM Notes.

8. During the follow-up meetings, Duffield and Jordan represented that PCM pooled investor funds to make loans to small and medium-sized companies. They claimed that PCM was experienced in making these loans as well as managing the loan portfolio for the benefit of investors. They assured prospective investors that the notes were “safe” and “secured” because they were “backed by assets” owned by PCM’s borrowers. They represented that the notes paid “guaranteed” annual returns ranging from 4.5% to 9%. If a prospective investor did not have sufficient funds readily available, Duffield and Jordan encouraged the investor to liquidate other investments regardless of surrender fees and other charges in order to invest in the notes. They also encouraged investors to use funds held in Individual Retirement Accounts.

9. Duffield and Jordan did not provide prospective investors with offering materials consistently, even after investors asked for documentation on the notes. Although Jordan received copies of the PCM Fund private placement memorandum (“PPM”) from Heath & Associates, Jordan stopped giving them out because, when he did so, prospective investors declined to invest due to the lack of financial information in the PPM. Jordan admitted that he “didn’t feel comfortable” when he read the PPM because of the dearth of financial and other information. Rather than giving prospective investors a meaningful disclosure document, Duffield and Jordan often based their sales presentations on a 16-page glossy, color brochure from PCM, which provided no financial statements or other material information about the risks of the investment. Some prospects were not even given the brochure. Some investors received the brochure only after they invested. In short, the brochure contained statements about seniors’ fears of outliving their money: “Maintaining your standard of living is one concern. The other is how long your money will last....The danger of outliving your assets is real.” Duffield and Jordan often repeated these same themes in their one-on-one consultations, telling prospective investors that the notes provided a “guaranteed,” “steady flow” of additional income or were an “income producing investment.”

10. Duffield and Jordan did not conduct any due diligence on the notes, PCM, or its purported borrowers. Instead, they relied solely upon representations about the investment from Heath or other unlicensed sales agents.

11. Duffield and Jordan told prospective investors that the PCM Notes were “safe” and “secured” because they were “backed by assets” owned by PCM’s borrowers. These representations were false because neither PCM nor the PCM Fund filed the necessary documents to secure the loans to unaffiliated borrowers such as UCC-1 financing statements, mortgages, trust deeds, or liens. Consequently, the investors’ security interest in any such collateral was not perfected and their funds were at risk. In fact, the vast majority of funds PCM provided to borrowers was not documented in any way and was essentially unsecured cash advances by PCM. Duffield and Jordan had no basis to represent that the notes were safe, secured, and backed by assets.

12. Duffield and Jordan received commissions from the sale of the PCM Notes. Duffield and Jordan failed to disclose to prospective investors that they received a commission on the sale of the PCM Notes. In some instances, when asked, Duffield and Jordan falsely told prospective investors that they received no commission at all or misled the investors about the sources of the funds used to pay their commissions. Duffield told at least one investor that he was paid a commission by the companies that borrowed money from PCM, assuring her that “You’ll never have to write me a check.” In fact, Duffield and Jordan received a 6% commission on every sale from Heath & Associates. In addition, Heath & Associates paid them a “bonus” of 1% to 2% if they persuaded the investor to accept a lower interest rate or a longer term of maturity, but they did not disclose this arrangement to investors. Duffield and Jordan were paid commissions of \$264,040 and \$270,337, respectively, from the sale of the PCM Notes.

13. Duffield and Jordan failed to disclose to potential investors the D&R Orders against Heath, Heath & Associates, PCM, and the PCM Fund after Duffield and Jordan found out about the orders in March 2003. Duffield and Jordan continued to offer and sell the notes even though they knew that Heath and his entities were cited for conducting an unregistered offering of the PCM Notes, and that none was a registered broker-dealer as was required. Moreover, they misled existing investors by minimizing the importance of the D&R Orders. Duffield and Jordan told existing investors that the D&R Orders no longer applied because either the “problem” had been resolved years ago or because they were not selling securities. In fact, as Duffield and Jordan well knew, Heath and his entities were engaged in precisely the same violative conduct at issue in the prior D&R Orders.

14. As a result of the conduct described above, Duffield and Jordan willfully violated Sections 5(a) and 5(c) of the Securities Act, which prohibit the unregistered offer and sale of securities in interstate commerce unless an exemption from registration applies.

15. As a result of the conduct described above, Duffield and Jordan willfully violated Section 17(a) of the Securities Act, Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, which prohibit fraudulent conduct in the offer and sale of securities and in connection with the purchase or sale of securities.

16. As a result of the conduct described above, Duffield and Jordan willfully violated Section 15(a) of the Exchange Act, which requires brokers and dealers who effect securities transactions through interstate commerce to be registered with the Commission or, if the broker or dealer is a natural person, be associated with a registered broker or dealer that is not a natural person.

Disgorgement and Civil Penalties

17. Respondent Jordan submitted a sworn Statement of Financial Condition dated December 8, 2006, amended July 27, 2007, and other evidence and has asserted his inability to pay disgorgement plus prejudgment interest and a civil penalty. Respondent Duffield submitted a sworn Statement of Financial Condition dated December 8, 2006, amended August 1, 2007, and other evidence and has asserted his inability to pay disgorgement plus prejudgment interest and a civil penalty.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondents' Offers.

Accordingly, pursuant to Section 8A of the Securities Act and Sections 15(b)(6) and 21C of the Exchange Act, it is hereby ORDERED that:

A. Respondents shall cease and desist from committing or causing any violations and any future violations of Sections 5(a), 5(c), and 17(a) of the Securities Act and Sections 10(b) and 15(a) of the Exchange Act and Rule 10b-5 thereunder.

B. Respondent Duffield be, and hereby is barred from association with any broker or dealer.

C. Respondent Jordan be, and hereby is barred from association with any broker or dealer, with the right to reapply for association after five (5) years to the appropriate self-regulatory organization, or if there is none, to the Commission.

D. Any reapplication for association by Respondents Duffield and Jordan will be subject to the applicable laws and regulations governing the reentry process, and reentry may be conditioned upon a number of factors, including, but not limited to, the satisfaction of any or all of the following: (a) any disgorgement ordered against the Respondents, whether or not the Commission has fully or partially waived payment of such disgorgement; (b) any arbitration award related to the conduct that served as the basis for the Commission order; (c) any self-regulatory organization arbitration award to a customer, whether or not related to the conduct that served as the basis for the Commission order; and (d) any restitution order by a self-regulatory organization, whether or not related to the conduct that served as the basis for the Commission order.

E. IT IS FURTHERED ORDERED that Respondent Duffield shall pay disgorgement of \$264,040 plus prejudgment interest, but that payment of all but \$42,000 is waived based upon Respondent's sworn representations in his Statement of Financial Condition dated December 8, 2006, amended August 1, 2007, and other documents submitted to the Commission. Respondent Duffield shall, within ten (10) days of the entry of the Order, pay disgorgement of \$42,000 to Robb

Evans & Associates, LLC, the court-appointed receiver for Heath & Associates, PCM, and the PCM Fund pursuant to Rule 1102 of the Commission's Rules on Fair Fund and Disgorgement Plans [17. C.F.R. § 201.1102]. Such payment shall be: (A) made by United States postal money order, certified check, bank cashier's check or bank money order; (B) made payable to Robb Evans & Associates, LLC; (C) hand-delivered or mailed to Robb Evans & Associates, LLC, 11450 Sheldon Street, Sun Valley, CA 91352; and (D) submitted under cover letter that identifies Duffield as a Respondent in these proceedings, the file number of these proceedings, a copy of which cover letter and money order or check shall be sent to the Associate Regional Director, Division of Enforcement, Securities and Exchange Commission, 5670 Wilshire Boulevard, 11th Floor, Los Angeles, California 90036. Based upon Respondent Duffield's sworn representations in his Statement of Financial Condition dated December 8, 2006, amended August 1, 2007, and other documents submitted to the Commission, the Commission is not imposing a penalty against Respondent Duffield.

F. IT IS FURTHERED ORDERED that Respondent Jordan shall pay disgorgement of \$270,337 plus prejudgment interest, but that payment of all but \$5,000 is waived based upon Respondent's sworn representations in his Statement of Financial Condition dated December 8, 2006, amended July 27, 2007, and other documents submitted to the Commission. Respondent shall, within ten (10) days of the entry of the Order, pay disgorgement of \$5,000 to Robb Evans & Associates, LLC, the court-appointed receiver for Heath & Associates, PCM, and the PCM Fund pursuant to Rule 1102 of the Commission's Rules on Fair Fund and Disgorgement Plans [17. C.F.R. § 201.1102]. Such payment shall be: (A) made by United States postal money order, certified check, bank cashier's check or bank money order; (B) made payable to Robb Evans & Associates, LLC; (C) hand-delivered or mailed to Robb Evans & Associates, LLC, 11450 Sheldon Street, Sun Valley, CA 91352; and (D) submitted under cover letter that identifies Jordan as a Respondent in these proceedings, the file number of these proceedings, a copy of which cover letter and money order or check shall be sent to the Associate Regional Director, Division of Enforcement, Securities and Exchange Commission, 5670 Wilshire Boulevard, 11th Floor, Los Angeles, California 90036. Based upon Respondent Jordan's sworn representations in his Statement of Financial Condition dated December 8, 2006, amended July 27, 2007, and other documents submitted to the Commission, the Commission is not imposing a penalty against Respondent Jordan.

G. The Division of Enforcement may, at any time following the entry of this Order, petition the Commission to: (1) reopen this matter to consider whether Respondents provided accurate and complete financial information at the time such representations were made; and (2) seek an order directing payment of disgorgement, prejudgment and postjudgment interest, and the maximum civil penalty allowable under the law. No other issue shall be considered in connection with this petition other than whether the financial information provided by Respondents was fraudulent, misleading, inaccurate, or incomplete in any material respect. Respondents may not, by way of defense to any such petition: (1) contest the findings in this Order; (2) assert that payment of disgorgement and interest should not be ordered; (3) contest the amount of disgorgement and interest to be ordered; or (4) assert any defense to liability or

remedy, including, but not limited to, any statute of limitations defense. Respondents agree that if the full amount of any payment described above is not made by the date the payment is required by this Order, the entire amount of disgorgement, prejudgment and postjudgment interest, minus payments made, if any, is due and payable immediately without further application.

By the Commission.

Nancy M. Morris
Secretary