

Ponzi scheme case delayed again

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By DEVONA WELLS / The Press-Enterprise

A chance for four men accused of running a massive Ponzi scheme to enter pleas Thursday was delayed again Thursday as further details emerged in the \$144 million alleged fraud.

The number of D.W. Heath & Associates victims identified by the Riverside County district attorney's office has climbed to more than 1,000 in 17 states, according to court records. The previous figure of 803 counted only those investors who handed over their Individual Retirement Accounts, said Michael Silverman, deputy district attorney.

Both defense and prosecuting attorneys asked for the delay in proceedings. Arraignments for the four defendants were rescheduled for July 21 at 8:30 a.m. in Riverside County Superior Court.

Daniel William Heath, 47; along with his father, John William Heath, 77; Denis Timothy O'Brien, 50; and Larre Jaye Schlarmann, 46, remain in custody. The four have been charged with elder abuse - theft from someone 65 years old and older - and various counts of securities fraud. Bail for each has been set at \$144 million, the amount Silverman has said the defendants pulled in from investors.



(Kurt Miller / The Press Enterprise)
Defendant Daniel Heath, left, talks to his father, John, before a hearing on Thursday.

Daniel Heath and Schlarmann face up to 200 years in prison if convicted, while O'Brien and John Heath could be sentenced to around 61 years, according to sentencing guidelines from Silverman.

Michael Lipman, Schlarmann's attorney, said after the hearing that jail has not been pleasant for his client. The four defendants were arrested last week.

"He's not a career criminal. He's never been in jail before," Lipman said. "I don't think he's done anything wrong."

While investors were told they were getting a safe investment, the four men ran a Ponzi scheme - paying earlier investors with money from later ones, according to Silverman. He called it the biggest fraud ever prosecuted by the county.

Rodger Carey, attorney for O'Brien, said Thursday it's too soon for him to respond to the charges.

"I haven't had a chance to talk to Denis about the counts," he said.

According to court records, e-mails dating from 2001 between Daniel Heath and Schlarmann show that both knew then that the entities funded by investor money were suffering millions of dollars in losses and that investors could not be repaid. Despite a brochure saying they took no commission, the defendants collected 10 percent on investor sales, court records say.

Also, investigators used a hidden microphone to tape a conversation at Heath & Associates' Hemet office between O'Brien and an investor who had invested \$60,000. Other Heath & Associates offices were operated out of Temecula, Brea and Pasadena.

Thursday afternoon marked the first court appearance for Schlarmann and John Heath. Daniel Heath and O'Brien appeared Wednesday, when their hearing was rescheduled so the foursome could be arraigned together.

All wore orange jail jumpsuits and handcuffs.

Heath & Associates targeted investors at least 47 years old with yearly incomes starting at \$50,000, according to an investigator's interview with marketing coordinator Linda Brown included in court records. After purchasing lists of names, addresses and telephone numbers, the company would make phone and mail invitations to free lunches, with all marketing handled out of the Hemet office, according to court records.

Investors were promised returns of at least 5.5 percent to 8 percent interest yearly, according to the Securities and Exchange Commission, which sued Heath & Associates in April.

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