

No bail break for Heath figure

COURT: The 78-year-old man, who is facing up to 61 years in prison, says his health is failing.

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By DEVONA WELLS / The Press-Enterprise

FRAUD CASE

D.W. Heath & Associates' defendants are charged with securities fraud. One report puts the total collected at \$178 million.

A request to free fraud defendant John Heath or drastically reduce his bail was denied Tuesday, delighting dozens of D.W. Heath & Associates investors.

Heath, 78, was arrested in July and has since pleaded not guilty to numerous counts of securities fraud and grand theft. In the latest report by the firm sorting out Heath & Associates' accounts, the company is said to have brought in at least \$178 million from more than 1,800 investors.

Jeff Van Wagenen, Heath's attorney, said his client's health has deteriorated since being jailed. Heath, who came to court in a wheelchair, faces up to 61 years in prison if convicted, according to sentencing guidelines provided by deputy district attorney Michael Silverman.

Prosecutors argued that Heath, who they say was a company salesman, has a big incentive to flee if let out of jail. Van Wagenen said his client had surrendered his passport and would not leave the area. He asked that Heath be released and tracked by an electronic monitoring device or that his bail be set at less than \$1 million.

Riverside County Superior Court Judge Gordon R. Burkhart said Heath poses a flight risk and maintained Heath's bail at \$144 million, said by prosecutors to be the county's highest ever.



(Kurt Miller / The Press Enterprise)

"I do believe he remains a danger to others," Burkhart said.

Investors packed the small courtroom; at least 20 had to wait outside because all seats were full. After the crowd loudly groaned and booed during the hearing, Burkhart said he would clear the courtroom if the outbursts continued.

Penny Joy, 65, drove eight hours from Prescott, Ariz., with husband, John Patrick, 63, to be there. Since interest payments from Heath & Associates stopped, the couple has had little money to live on.

Joy said they eat breakfast and lunch each day at a Salvation Army kitchen.

"My heart was in my throat waiting to hear what the judge would say. It was worth the trip," she said.

Others drove from Cerritos, Brea, Anaheim and Chino.

Said Elinor Morris, who with her husband, Clarence, invested nearly \$500,000: "I'm just delighted at the outcome. We've suffered greatly."

Marjorie McIntosh of Hemet mingled among investors after the hearing, many of whom peppered deputy district attorney Mark Mandio with questions about the case.

A round of applause broke out for Mandio after one investor said she appreciated his working in keeping Heath behind bars.

"I think he needs to be kept there, absolutely," McIntosh said. "All this money and they don't know where it is."

Prosecutors said that \$35 million of what was raised by Heath & Associates has yet to be accounted for by the court-appointed receiver, which is charged with recovering assets and getting a handle on company accounts.

After the hearing, Van Wagenen said Heath was disappointed to not be released.

"Given the situation with all the people who turned out for the hearing we're not all that surprised," he said. "Obviously he wants to be out of custody, so we'll address it again at some point."

Pre-trial testimony scheduled for Tuesday was again put off, this time because Daniel Heath's defense attorney Barry O. Bernstein is in trial. Interviews of investors, expected to take all day, will be on Oct. 18 or Oct. 26.

The preliminary hearing, where the judge hears evidence to determine if it merits a trial, also was reset for an undetermined date after Oct.

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