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Fraud-case targets grow

D.W. HEATH: A suit claims Colorado firm aided in the cover up of the alleged scheme.

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By DEVONA WELLS / The Press-Enterprise

Losses
Heath & Associates investors are owed $118 million and have been told to expect a return of 14 cents on the dollar.

SOURCE: Robb Evans & Associates

One year after D.W. Heath & Associates was closed, investors have sued a Colorado company they accuse of neglecting its duties and ignoring information that could have prevented what authorities says is a $192 million fraud.

The lawsuit says First Trust Corporation helped Daniel Heath, president of Heath & Associates, cover up illegal activities by keeping a lid on the investment firm's many complaints and record-keeping errors.

"They knew problems were coming and started changing policies . . . and they took these actions to protect themselves and not their investors," said Kevin F. Ruf, who said he filed the suit Wednesday in U.S. District Court.

James R. Hoy, assistant general counsel at First Trust, declined to comment saying the company had not been served with the lawsuit. But at an investor meeting last year, Hoy said the company is a background player that was "not in a position to do due diligence to find out what Dan Heath says is true."

Heath, along with three others, has pleaded not guilty to fraud and grand theft charges filed by the Riverside County district attorney's office.

Prosecutors say Heath ran a Ponzi scheme for years after the state told him to stop selling investments. The firm was closed last April by a federal court order.

A Ponzi scheme is one in which early investors are paid with money from later ones.

This suit was filed as a class action on behalf of the more than 1,600 Heath investors. But a judge still must certify its class-action status.

Ruf said it is too soon to say what kind of damages will be sought, "but we know damages are close to $118 million, less whatever Robb Evans distributes."

Court-appointed receiver Robb Evans & Associates has projected a return of 14 cents for every missing investor dollar.

Eileen L. Horton of Fullerton gave Heath & Associates $60,000, including an IRA and her $13,000 funeral fund.

Horton, a plaintiff named in the suit, said Thursday that her health, including high blood pressure and diabetes, has declined since she found out Heath & Associates had closed and her money was likely gone.

"I don't know if I'll get anything back. I'm hopeful," said Horton, 72.

First Trust administered Heath IRAs worth more than $60 million, almost one-third of which was ultimately raised by Heath & Associates, according to the lawsuit.

The trust company did warn investors in a March 2003 letter that Heath might not be complying with a 5-year-old order from the state Department of Corporations telling him to halt investment sales. At that time, First Trust told investors and the state that it would no longer accept accounts from Heath & Associates.

But the lawsuit contends that by then First Trust knew that Heath's investment firm was floundering and concealed information from investors. The lawsuit claims, for example, that Heath revealed to First Trust that $60 million invested by First Trust customers was worth as little as $15 million.

Also, the company did not review investment paperwork and it neglected to keep on file a prospectus for most Heath offerings, even though the company told investors it had done both, according to the lawsuit.

"Had First Trust required these documents, the Heath criminals could not have perpetrated their scam," the suit says.

At least one other investor lawsuit has been filed on behalf of a group of investors looking to recoup $10.8 million they say they put into Heath & Associates.

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