

Heath fraud case to be tried

Court: Prosecutors say investors, many of them retirees in Hemet, were bilked of their savings.

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By DEVONA WELLS / The Press-Enterprise

A Riverside County judge decided Friday to send the D.W. Heath & Associates fraud case to trial.

Daniel Heath; his father, John Heath; and Denis O'Brien will be tried on numerous charges of securities fraud and grand theft for what prosecutors say was a \$192 million scam that bilked more than 1,600 investors. Heath & Associates operated offices in Brea, Pasadena and Hemet -- the city with the largest number of investors and where the firm conducted its marketing.

The three men, who were arrested and jailed more than a year ago, have pleaded not guilty.

Attorneys said they expect a trial to begin no earlier than late summer and estimated it could last two months or longer. The men are scheduled to be arraigned Feb. 21, when they will be formally charged and re-enter pleas.

Defense attorneys spent more than an hour Friday arguing to drop some charges for jurisdiction and statute of limitations reasons, but Judge Gordon R. Burkhardt upheld all charges.

Daniel Heath will be charged with 402 felony counts, followed by 65 for Denis O'Brien and 55 for John Heath.

Deputy District Attorney Michael Silverman said that, if convicted, Daniel Heath could be sentenced to 167 years, with O'Brien facing 39 years and John Heath eligible for a 33-year sentence.

Dolores Lawson, one of three investors who drove from Anaheim Hills for Friday's hearing, said she was delighted the judge ordered a trial. Lawson found out the \$91,000 she had invested with Heath was frozen in May 2004, just five months after her husband died.

"They have affected so many lives," she said. "It's heartbreaking the stories you hear again and again."

Authorities say Heath & Associates ran a Ponzi scheme, using cash from later investors to pay earlier ones. In December, investors saw a partial return of 15.3 cents for every dollar lost.

Throughout the preliminary hearing, which started in November, the prosecution called more than 40 witnesses. Most were elderly investors who told of the savings and retirement accounts they lost after they were told their investments were safe and guaranteed.

"The evidence was overwhelming," Silverman said.

Barry O. Bernstein, Daniel Heath's attorney, said after the hearing: "The political reality for a judge confronted with this many irate voters makes it very difficult to listen to any arguments from the defense."

Larre Schlarmann, who partnered with Daniel Heath to develop projects that investor money was poured into, pleaded guilty to money laundering and nine other charges in November.

He was sentenced to 15 years and sent to a medium-security prison near San Luis Obispo, according to the state Department of Corrections.

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