

Heath investment fraud trial ends in 400 guilty verdicts, one not guilty

January 11, 2008

By LOU HIRSH / The Press-Enterprise

Prosecutors will seek the maximum prison term of 117 years for the president and sole officer of D.W. Heath & Associates, who was convicted this week of bilking 1,600 mostly elderly investors.

Daniel W. Heath received the final verdicts Friday, with jurors finding him guilty of 400 of 401 criminal counts, including securities fraud, selling securities without a license, theft from the elderly and grand theft. The verdicts were read over two days in the \$190 million investment fraud trial involving his shuttered company.

He and his co-defendants were convicted on charges including securities fraud, selling securities without a license, theft from the elderly and grand theft. Daniel Heath was also convicted of money laundering and filing false tax returns. He will be sentenced March 21.



(Ed Crisostomo / The Press-Enterprise)

Defendants Daniel W. Heath, from left, Denis O'Brien and John Heath wait after all the verdicts are read in Judge Ronald L. Taylor's courtroom. It took two days to get through all 401 verdicts.

Heath's father, John W. Heath, was convicted on 52 counts and faces as long as 28 years in prison when he is sentenced Feb. 22. Business associate Denis T. O'Brien was convicted on 70 counts and faces as long as 37 years at his Feb. 29 sentencing.

Victims will be permitted to speak before Superior Court Judge Ronald Taylor renders the sentences.

Deputy District Attorney Michael Silverman said jurors, who began deliberations Dec. 10 after a nearly five-month trial, "saw through" the defendants' contention that they didn't know they were doing anything improper.

He added that the jury clearly was not a "rubber stamp" for prosecutors because it was able to identify in its one "not guilty" verdict -- affecting Daniel Heath and O'Brien -- that one investor was not old enough to have been considered a victim of elder theft at the time transactions took place.

Sending Messages

Prosecutors said the verdicts should also remind consumers to invest only in properly registered securities and always to know before investing where the money will be going.

It also should send a message to sellers of securities about registration and brokerage licensing laws.

"There are (sellers) out there who think that if investors complain, the worst they can face is civil suits, but we made it clear that you will face criminal charges," Deputy District Attorney Michael Quesnel said.



(Ed Crisostomo / The Press-Enterprise)

Spectators in the courtroom listen to the verdicts being read.

A number of the defrauded investors were in courtroom for practically all of the trial, which was Riverside County's longest of 2007.

Prosecutors said Daniel Heath showed no remorse before or during the trial. Their talks with jurors after the trial indicated that his testimony hadn't helped him, they said.

Daniel Heath's attorney, Barry O. Bernstein, was not in court Friday and could not be reached for comment afterward. Prosecutors said Daniel Heath's sentencing was set for March because his attorney may file motions for a retrial and the court may need to schedule hearings on those motions.

O'Brien's attorney, Joel Renk, said he would consult with his client before deciding whether to appeal the verdicts.

"Obviously, we're disappointed," Renk said.

Chad Firetag, John Heath's attorney, said his client will appeal the verdicts.

"I felt that John was shown to be not a big part of (what occurred), but the jury disagreed," Firetag said. "You can be disappointed, but the jury worked hard on this."

After the proceedings, jury forewoman Laura Lubin, a school psychologist from Norco, said jurors pored extensively over all of the charges after hearing testimony from nearly 100 trial witnesses.

"We asked plenty of questions in the jury room," Lubin said. "We ran out of jury question forms several times."

Lubin said the trial's conclusion was "bittersweet" for her and fellow jurors, noting that they were glad to be getting back to their families and workplaces, but they had formed tight bonds.

The arduous task of sifting through months of factual testimony, combined with hearing the stories of elderly investors, took an emotional toll.

"There were times when I cried at court, and there were times when I went home and cried," Lubin said.

'Beware of Free Lunch'

David Brown, a lawyer in the Securities and Exchange Commission's Los Angeles office, attended several days of testimony. He said Friday that the trial should warn consumers to "beware of the free lunch" often used to lure victims into investment schemes. The SEC is investigating 40 other such seminars nationwide.

Many of the Heath victims were initially invited to free lunch and dinner seminars at area restaurants, during which salesmen told invitees about the firm's investments and invited them back for follow-up consultations with advisers.

A federal court order, prompted by SEC and local investigations, shut D.W. Heath & Associates in April 2004. The defendants were arrested in July of that year, and they have since remained in Riverside County jail, none of them able to make a bond of \$144 million.

Heath's firm operated out of offices in Hemet, Brea and Pasadena from 1993 until 2004, even though the state Department of Corporations had served it with a desist order in 1998.

Prosecutors said investors were promised their money would go into safe investments, but most of it instead went into failed or money-losing real estate and business startup projects in which Daniel Heath had a controlling interest.

New investors' money was used to pay earlier ones their promised returns, usually ranging from 8 to 12 percent, in what is known as a Ponzi scheme.

In thanking the jurors for their service, Judge Taylor said the Heath case was the longest Riverside County trial of 2007, and among the longest in California in the past year.

Riverside County District Attorney Rod Pacheco said in dollar terms, it was the county's largest-ever investment fraud case and was likely the largest-ever in Southern California.

Pacheco praised the two prosecutors and their support staff for their work in the case, which he said took "tens of thousands" of hours to investigate, prepare and present.

Pacheco said his office also will seek to return money to the investors beyond what has already been distributed by a court-appointed receiver.

The receiver, which liquidated Daniel Heath's assets and has made three disbursements to investors, has reported that investors ultimately will get back no more than 22 cents on each dollar of investment.

Investors at the Corona courthouse, many of whom attended nearly every session of the trial since it began Aug. 27, said they are happy with the trial's outcome and look forward to the sentencing hearings.

"The evidence was overwhelming," said Jerry Jenson, 62, of Cerritos. The retired Edison employee lost more than \$100,000 in the scheme and attended about 90 percent of the trial.

"I think this case shows there needs to be some kind of national registration process for securities," he said.

Final count

Jurors finished delivering their verdicts Friday on 401 counts against the three defendants in the investment fraud case.

All three were convicted on a combination of charges, including theft from the elderly, grand theft, selling false securities and selling securities after a refrain order.

Daniel Heath alone was convicted on one count of money laundering and five counts of filing false tax returns.

Total Verdicts

Daniel W. Heath	Guilty: 400 counts	Not guilty: 1
John W. Heath	Guilty: 52	Not guilty: 0
Denis T. O'Brien	Guilty: 70	Not guilty: 1

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