

John Heath sentenced for fraud, theft from elderly

February 22, 2008

By LOU HIRSH / The Press-Enterprise

In an emotion-filled hearing, one of the three men convicted in a \$190 million investment scam that bilked some 1,600 mostly elderly victims was ordered Friday to serve more than 28 years in prison.

"I intend for this to be a life sentence," said Riverside County Superior Court Judge Ronald Taylor as he sentenced the ailing, 81-year-old John W. Heath in a Corona courtroom. He said Heath's actions forced hundreds of elderly retirees, many of whom had turned over all their life savings, to spend the rest of their lives in poverty.



Stan Lim/The Press-Enterprise

John W. Heath, 81, reacts as three of his children speak at his sentencing hearing, asking the judge to show him leniency.

Five of about 30 victims in the courtroom spoke of their financial and physical ordeals since losing their investments. "I am looking at another open-heart surgery due to the stress from losing all of our savings to John Heath," said Albert Rumpilla, of Diamond Bar, who with his wife defrauded out of what was their life savings of \$17,000. "We are really having a hard time paying our medical expenses."

D.W. Heath & Associates promised investors a high return on what were sold as safe securities, but in reality the bulk were failing real estate and business start-up projects in which Heath's son, Daniel, had a controlling interest. In the end, investors got back about 22 cents on each dollar invested through a court-appointed receiver.

A jury last month convicted Heath on 52 criminal counts including securities fraud, selling securities without a license and theft from the elderly.

Taylor also ordered Heath to join his co-defendants in paying \$117 million in restitution to victims, including promised interest payments on investments and other money that the court-appointed receiver has been unable to retrieve through asset liquidation.

Heath's son Daniel, 50, president and sole officer of the court-shuttered D.W. Heath & Associates, was convicted on 400 counts and faces up to 117 years in prison at his sentencing scheduled for March 21. Business associate Denis T. O'Brien, 53, was convicted on 70 counts and faces up to 37 years at his sentencing Friday.

Tearful Plea for Mercy

Clad in an orange jail jumpsuit and seated in a wheelchair, John Heath tearfully asked the judge for mercy. He said he did not knowingly do harm to clients, many of whom he considered his friends.

"I suppose I allowed my love and admiration for my son (Daniel) to substitute for my due diligence," Heath said in his first public comments since his arrest.

Earlier in the hearing, Heath, who is frail and under treatment for terminal bone cancer, wiped away tears as three of his five adult children pleaded for leniency. They described their father as a religious man and dedicated father and husband, who had lost his wife of nearly 50 years to cancer in 2002. They asked that their father be allowed to spend his remaining days with his family. "He is already a broken man in every way possible," son Phillip Heath said. "He has lost everything"



Stan Lim/The Press-Enterprise

Al Rumpilla, of Diamond Bar, gives a victim's statement at the sentencing hearing for John W. Heath, one of three men convicted in the \$190 million D.W. Heath and Associates investment fraud case.

But Taylor said he was not swayed by those pleas or others made by defense attorney Chad Firetag, who said Heath posed no risk of committing similar crimes in the future. He also said Heath did not have the same knowledge that his son Daniel did about what was really happening at Heath & Associates. Firetag said he would file an appeal.

The judge noted that the jury found the elder Heath knew of problems that existed with the investments but knowingly continued to sell them to clients.

In ruling out probation, Taylor said many of Heath's elderly victims were frail and vulnerable and had not been savvy about the investments being pitched to them.

Ruth Penzer, 86, of Palm Desert, told the court that she spends hours each day caring for her older husband, who is legally blind, because after losing the bulk of their life savings, they can't afford a proper care facility.

"The doctors say this is too much for me, but I'm going to do this until I've breathed my last breath," she said.

Prosecutors read excerpts from several of the hundreds of victim impact statements submitted prior to the sentencing. "I gave up a house in Hemet and had to move in with my children in Los Angeles," Doris Anderson wrote. "I'll be 74 in July, and I still need to work to eat. I have lost my independence."

After the hearing, Riverside County Deputy District Attorney Michael Quesnel said prosecutors were pleased with the sentence, saying it will "send a message" that those involved in investment fraud will face criminal prosecution, not just civil lawsuits.

Investors at Friday's hearing said they were pleased with the sentence and were looking forward to seeing what will become of Daniel Heath next month.

"It was the only possible sentence there could be," said Margaret Scholz, 77, of Orange, who with her late husband, Kenneth, lost several hundred thousand dollars. "Unfortunately, my husband didn't live to see it," she said.

The judge said the D.W. Heath case was the largest case of elder-targeted investor fraud in Riverside County's history, and likely among the largest in California history.

Reach reporter Lou Hirsh at (951) 368-9559 or lhirsh@pe.com.

Copyright 2008 The Press-Enterprise