

MX president faces arrest

COURT ORDER: Regulators claim the executive is not aiding in the recouping of funds.

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By DEVONA WELLS / The Press-Enterprise

MX Factors president Richard Harkless has nearly two weeks to avoid arrest, daily fines and surrendering his passport.

The Securities and Exchange Commission had asked that Harkless be found in contempt for not cooperating in recouping funds allegedly caught up in an MX Factors Ponzi scheme, in which money from new investors is used to pay original ones.

On Thursday, U.S. District Court Judge Virginia A. Phillips gave Harkless several more days to fulfill a March court order she issued requiring that he bring foreign MX Factors funds to the United States and provide information on his assets and company accounts.

Altogether, MX Factors pulled in about \$55.6 million starting in March 2000, according to receiver Robb Evans & Associates. Harkless, who was not in court Thursday, has said MX Factors was a legitimate business.

In February, the Securities and Exchange Commission sued Harkless along with MX Factors investment arms JTL Financial Group of Corona and BBH Resources of Palm Springs. Altogether, MX Factors pulled in about 250 investors by promising a 12 percent return every 60 to 90 days.

The Securities and Exchange Commission said in court records that Harkless has not provided a full accounting of company records due in March, transferred at least \$264,290 out of MX Factors bank accounts in Belize and has not cooperated with receiver Robb Evans.

Pat Swan, Harkless' attorney, has said that Harkless has worked with the receiver by providing various documents.

On Thursday, Phillips asked the Securities and Exchange Commission to draw up a list of specific figures it wants from Harkless and to rewrite its proposed order to hold Harkless in contempt - an order she expects to sign next week. After the order is signed, Harkless will have seven days to meet the court's March order before he is found in contempt.

In that time, Harkless must provide more information about his assets. So far, he has turned in a one-page list that Phillips called "woefully lacking in detail." Also, Harkless needs to help bring to the United States any overseas funds.

Should Harkless not comply, Phillips said she would fine him \$1,000 daily, confiscate his passport and issue a bench warrant for his arrest.

Said Securities and Exchange Commission attorney Jose Sanchez: "We just have to wait and see if Mr. Harkless ... is ready to follow the order, if he'll comply."

Phillips said Harkless would be required to be at the next hearing, expected to take place the last week in July. Swan said his client is in Mexico.

After the hearing, Swan said that he was pleased the judge asked the Securities and Exchange Commission to provide more details on the information it wants from Harkless.

"It's hard to comply when you don't know what to comply with," he said.

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