

Fugitive Wanted in Inland Investment Scam Arrested

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By LOU HIRSH / The Press-Enterprise

Federal agents in Arizona this week arrested the man they said was the mastermind behind an Inland-based investment scheme who had been a fugitive for three years.

Richard M. Harkless, the former head of Riverside-based MX Factors LLC, was arrested in connection with an investment network that took in \$58.5 million from more than 500 people. Investors are still owed more than \$39 million from the scam, according to officials.

A federal warrant was issued in 2004 for Harkless after he did not appear at a contempt hearing requested by the U.S. Securities and Exchange Commission. His attorney at the time said Harkless was in Mexico.

Information provided by private investigators who staked him out in Ensenada led to the arrest Monday in Phoenix by Internal Revenue Service agents. He was there visiting his wife and mother-in-law, they said.

The MX Factors scam ran from 2000 to 2003. A victim said by phone Thursday the arrest was good news.

"We were elated," said Debbie Cellilo, of Visalia, about Harkless' capture. Cellilo said she and her two sons invested around \$200,000 between them in MX Factors, but have since received only "pennies on the dollar" for their losses.

In September 2003, the state Department of Corporations ordered MX Factors, fed by investment arms BBH Resources of Palm Desert and JTL Financial Group of Corona, to stop raising money. The Securities and Exchange Commission later called MX Factors a Ponzi scheme, which pays early investors with money from later ones, and filed a court action to shut down the company.

Three associates of Harkless -- Daniel J. Berardi, Thomas Hawkesworth and Randall Harding -- have since been convicted on federal charges, including investment fraud and money laundering. The three are serving a total of almost 15 years in prison and were ordered to pay nearly \$40 million in civil fines and penalties.

Harkless' case had been proceeding over the three years that he was a fugitive.

In a 16-count indictment filed in February and unsealed Monday in U.S. District Court in Riverside, the U.S. Attorney's Office said Harkless committed investment, mail and wire fraud.

Harkless and his agents promised investments would yield a 12 percent to 14 percent return every 60 to 90 days. The investors were told the money was funding loans to construction companies, but according to the indictment only about 20 percent was used that way, and half of those companies defaulted on the loans.

The indictment says when information began circulating that MX Factors was not legitimate, Harkless and his associates sent letters to investors lulling them into believing the investments would pay off.

The indictment says Harkless diverted approximately 80 percent of MX Factors funds to pay off other investors and pay agent commissions.

He funded and operated a crab fishing operation in Mexico and also transferred investor money to a bank account in the name of Jalyn Investments, then converted those funds for his own personal use.

Dennise Willett, an assistant U.S. attorney in the Justice Department in Riverside, said Harkless is in the custody of the U.S. Marshal's Service in Arizona. No timetable has been set, but Willett said Harkless will be brought to U.S. District Court in Riverside to face arraignment.

Kurt J. Mayer, a Phoenix attorney from the federal public defenders office who is representing Harkless, did not return a call seeking comment. Michael Moriarty, a public information officer with the IRS in Los Angeles, said Thursday he could not comment on the investigation beyond what is in the indictment.

In a published report earlier this week, Timothy France, a U.S. postal inspector, said a tip from San Diego private investigator Barry Minkow indirectly led to Harkless' arrest.

Minkow served seven years in jail in the 1990s for stock fraud after he bilked investors out of more than \$20 million in a fraudulent carpet-cleaning company called *ZZZZ Best*.

He is now chairman of the Fraud Discovery Institute in San Diego and authorities have credited him with identifying MX Factors as a Ponzi scheme.

In a phone interview Thursday, Minkow said he received a tip about a year ago from a man in Washington state who had seen Harkless in Mexico through his contacts in the fishing industry.

Private investigators working for Minkow's fraud-discovery organization tracked down Harkless in Ensenada and conducted surveillance of a house where he stayed between January and early September.

Minkow said investigators found that someone had supplied U.S. license plates to Harkless, which he apparently used on a vehicle to travel across the border.

Robb Evans and Associates, the court-appointed receiver assigned to retrieve investors' money, recently reported that it has liquidated all available assets held by MX Factors operators, although civil suits are pending against some investors who received overpayments from the receiver in 2005.

So far, about \$3 million has been returned to investors, just over 7.5 percent of total claims.

KEY FIGURES

People involved in the Inland area's \$58.5 million MX Factors investment scam, which took in money from more than 500 people -- many of whom were met in church and are still owed more than \$39 million:

Richard Harkless - President of Riverside-based MX Factors. Arrested Sunday in Phoenix, he faces a 16-count indictment for alleged investment, mail and wire fraud. Ordered by a federal court in 2006 to pay more than \$42 million in fines and penalties following a federal civil suit.

Daniel J. Berardi - Principal in Palm Desert-based BBH Resources, an investment arm of MX Factors. Sentenced in 2006 to five years and 10 months in prison for wire fraud and money laundering. Ordered to pay more than \$11 million in civil fines and penalties.

Thomas Hawkesworth - Another principal in BBH Resources. Sentenced in 2006 to four years and nine months in prison for wire fraud and money laundering. Ordered to pay more than \$11 million in civil fines and penalties.

Randall Harding - President of Corona-based JTL Financial Group, another investment arm of MX Factors. Sentenced in 2006 to four years and three months in prison for wire fraud and money laundering. Ordered to pay more than \$17 million in civil fines and penalties.

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