

Harkless' capture comes as result of extended stakeout in Ensenada

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By LOU HIRSH / The Press-Enterprise

This week's capture of the man authorities say spearheaded a \$58 million Inland-based investment scam was spurred in part by a long and patient stakeout by private investigators in Mexico.

But investigators said Friday the apprehension of MX Factors ex-president Richard M. Harkless, three years after he became a fugitive, also followed several missed opportunities created by jurisdictional complications and bureaucratic slowness by Mexican law enforcement.

"We had to just sit tight and keep watching," said investigator Juan Antonio Lopez, president of the San Diego-based Fraud Discovery Institute, who staked out an Ensenada home with three other private eyes from January through last week. "We finally got a break when he crossed the border."

Harkless was arrested Sunday by Internal Revenue Service agents in Phoenix after he went there to visit his wife and mother-in-law. Authorities said he was placed in the custody of the U.S. Marshal's Service, and he was slated to be transported to Riverside by early next week for eventual arraignment in U.S. District Court.

Authorities say Harkless masterminded an investment network, Riverside-based MX Factors LLC, which took in \$58.5 million from more than 500 people, who are still owed more than \$39 million. Between 2000 and 2003, authorities say Harkless ran an illegal Ponzi scheme, using money from new investors to pay earlier ones.

A federal warrant was issued for Harkless in 2004 after he failed to appear at a contempt hearing requested by the U.S. Securities and Exchange Commission. Three of his business associates are already serving prison sentences totaling nearly 15 years, and were ordered last year to pay nearly \$40 million in fines and penalties.

In a phone interview Friday, Lopez said he led a stakeout, along with three Mexican-based private investigators, of an Ensenada condominium where Harkless lived. During the past nine months, Lopez was in constant contact with Timothy France, a U.S. postal inspector in San Diego who spearheaded apprehension efforts among American authorities, who cannot legally take enforcement action in Mexico.

France has not returned phone calls seeking comment this week. Lopez said France met on several occasions with Mexican consulate officials but was unable to get that country's authorities to take immediate action on Harkless, despite showing them the federal arrest warrant.

That left Lopez and his fellow private eyes to gather information outside the condo, where they first spotted Harkless about six months ago.

"His lifestyle was very low-profile. He didn't go flashing money around," Lopez said. "He was able to pretty much blend in since a lot of Ensenada is retirement communities, even if there probably were a lot of investors out there looking for him."

The investigators notified Mexican immigration officials, assuming they would take action to arrest Harkless on the grounds that he was an undesirable alien resident wanted for possible criminal activity in his home country.

But Lopez was unable to get authorities to take much interest.

Lopez said he got the sense that authorities didn't give Harkless a high priority, since Mexico is known to have several U.S. fugitives at a given time.

The Phoenix capture finally happened after U.S. border agents matched the license plate numbers on a car used by Harkless, taken by a law enforcement camera, with the plate numbers that had been photographed by the private investigators in Ensenada.

The U.S. plates were on a vehicle that had been supplied to Harkless by a friend or business associate in Ensenada, Lopez said.

Barry Minkow, the chairman and founder of the Fraud Discovery Institute who was credited by authorities with identifying MX Factors as a Ponzi scheme, said the fact that Harkless was well-known locally may have slowed the process of extraditing him.

Others were surprised at how long it took to capture Harkless despite his relative prominence in the Ensenada community. Nancy Conroy, editor and publisher of the Gringo Gazette North, a biweekly newspaper in Baja California, said Harkless' company once sponsored a local crab feast event and took out advertising in her newspaper, which Harkless paid for.

"It was no secret he was down here," said Conroy, who has heard complaints from some MX Factors investors over the past three years and has written articles about Harkless' business dealings. "He was living here very openly."

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