



Posted on Mon, Nov. 13, 2006

Judge declares mistrial in PurchasePro founder's fraud case

By Janet Patton
HERALD-LEADER STAFF WRITER

ALEXANDRIA 𐄂 In an unusual move, a federal judge has declared a mistrial in the case against Charles E. "Junior" Johnson on federal charges of fraud and conspiracy.

However, the motions concerning the mistrial are all under seal and the proceedings were conducted out of the public view. So the reason for the mistrial, which was granted Thursday, is a mystery.

Johnson, a Lexington native and the founder of Las Vegas-based PurchasePro, had been on trial with three other defendants since Oct. 16 on charges stemming from the collapse of his company and deals with AmericaOnline that prosecutors charge defrauded investors of millions of dollars.

Johnson, who has pleaded not guilty, had yet to begin his defense in the trial. His attorney, Preston Burton of Washington, D.C., was released from the case and a mistrial was declared.

Burton, reached by telephone Monday, said he could not comment on the matter, but that Johnson is no longer his client.

The trial of the three remaining defendants will go forward.

Attorneys who are not involved in the case called the sealing of the documents and proceedings that occurred behind closed doors highly unusual.

Steve Chanenson, a criminal law professor at Villanova University, said that with so many things under seal, the most any observer can do is speculate.

"It is unusual to let an attorney step out in the middle of a trial," Chanenson said Monday. "It is unusual to allow a mistrial for unknown reasons, and it is unusual to have another judge take part in the proceedings." (A judge other than the trial judge held proceedings involving the Johnson case.)

Bruce Fein, a Washington-based attorney who specializes in constitutional and international law, said that he did not know the specifics on the case but that a change of attorney could be necessitated by a conflict of interest or a change in defense strategy, among other things.

"It's not routine by any means," Fein said.

Attempts to reach Johnson, who has apparently left the Washington area, were unsuccessful.

None of the defense attorneys or prosecutors involved in the case would comment on the reason for Johnson's mistrial.

According to the federal court docket, on Nov. 7, federal prosecutors filed a sealed document with U.S. District Judge Walter Kelley, who is presiding over the trial.

On Nov. 8, a motion was made under seal. However, the docket does not say who made the motion or what it was. Kelley took the motion under advisement.

The following day, Judge Leonie M. Brinkema held a proceeding related to the case. It was closed to the public and was not in the presence of the jury. Court documents do not reveal why a judge other than Kelley was involved.

Kelley then issued an order under seal as to the Johnson case; and a mistrial was granted in regard to Johnson only.

Monday, the prosecution filed another motion relating to Johnson under seal.

The trial of the three other defendants -- Christopher Benyo, John Tuli, and Kent Wakeford -- is to resume on Thursday, when the jurors will return.

© 2006 Lexington Herald-Leader and wire service sources. All Rights Reserved.
<http://www.kentucky.com>