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3 head to trial in stock scam, but leader likely far away

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Three men accused of participating in one of the largest stock frauds in Texas history went on trial in a federal court here Monday, but scam kingpin Harris Dempsey "Butch" Ballow — who already owes \$30 million in stolen money and fines — won't be around for the proceedings.

The whereabouts of the longtime Texas con man, arrested in 2002 by the FBI at his \$700,000 home in Tiki Island near Galveston, are unknown. But those who have followed Ballow's career believe he's living luxuriously somewhere in Central America after jumping bail here, leaving his alleged cohorts to take a collective fall for the civil securities crimes he devised and directed.

"Ballow should not only be in that courtroom this week, but also arriving there in handcuffs with a federal marshal every day," said Houston oilman Jakie Sandefer, a fraud victim who helped get Ballow arrested. "It's just outrageous he's not here."

Settlements approved

Alleged to have helped Ballow steal more than \$14 million in a stock scam and the defendants in a civil securities fraud trial today are defendants Marvin Mikel "Mike" Barnwell, David A. Keener and Earl Shawn Casias. The trial is in U.S. District Judge Keith Ellison's court. Ellison already has entered final judgment against Ballow in the U.S. Securities and Exchange Commission case. Ellison ruled that Ballow must repay \$14,304,973 he made in the stock scam and pay an equal civil fine for running the scam.

The court has approved settlements the SEC reached with nine other defendants and Ballow associates found to have participated in the fraud that involved a complicated scheme to manipulate the prices of stocks of companies that were known as EpicEdge Inc. and EVTC Inc. Some of the other defendants may testify in the case.

Barnwell, 66, of San Leon in Galveston County, is a longtime Ballow associate. Keener, 42, of Keller, was EVTC's president, and Casias, 37, is a former San Diego brokerage firm employee. The firm folded after Ballow defaulted on \$5.1 million in margin accounts in 2000.

Ballow walked free in November 2004 after posting 10 percent of a \$100,000 bond set by Houston U.S. District Judges David Hittner and Nancy K. Johnson.

Ballow had pleaded guilty in September 2003 to one wire-fraud count in a stock scam that cost major brokerages at least \$10 million and resulted in uncalculated losses to thousands of ordinary investors across the nation. Eleven other criminal counts were dropped in a plea agreement.

\$880,000 fine not paid

Five months before his release on bond, Houston U.S. District Judge Nancy F. Atlas had ordered Ballow to pay a civil fine of \$880,000 in connection with a huge stock scam unrelated to the one at issue in federal court here this week, according to SEC records. That fine had not been paid.

Over the next year, prosecutors and defense attorneys repeatedly sought delays in Ballow's sentencing. Details of Ballow's plea agreement remain sealed by the court.

On Dec. 16, 2004, Ballow failed to appear for sentencing. He faced up to 10 years in prison and a \$500,000 fine.

Ballow's career in fraud came to light after a July 29, 2001, Houston Chronicle report centered on a 1999 Harris County jury award of \$8.5 million in damages to Sandefer and his former oil firm partner, Steve Smith, against Ballow.

The two spent \$2.5 million trying to collect that judgment. Private investigators and lawyers they hired uncovered an international web of sham corporations and brokerage accounts through which they maintained Ballow conducted frauds. Court documents alleged that Ballow had more than \$100 million in various accounts and corporations just between 1999 and 2001.

Four-time convicted felon

Although he lived in an expensive home, owned a yacht and used a private jet, Ballow once testified in a federal bankruptcy court that he had no net worth and hadn't had a checking account in years. The Internal Revenue Service told that court it had no records of him.

Ballow is a four-time convicted felon, according to SEC documents.

His only prison term came after an Alabama federal grand jury indicted him in 1988 for a telephone sales scam in which he and others told people they had won vacations in Mexico and could make reservations by sending \$100. No one got vacations. In a plea deal, Ballow admitted to three offenses and was sentenced to five years on each. He served 19 months in federal prison before being paroled.

Hittner last week declined to comment on Ballow's release.

Although his was the final order allowing Ballow's release, Hittner severely chastised federal prosecutors and defense attorneys after Ballow failed to come to court for sentencing.

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