

News Release

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Brown Announces 24 Year Sentence In \$7 Million San Diego Mortgage Scam

SAN DIEGO--California Attorney General Edmund G. Brown Jr. today announced that Theodore Swain, 60, was sentenced this morning to 24 years in state prison for running a \$7 million Ponzi scheme that ripped off 100 investors in Southern California.

"This is the fourth time Swain has been caught ripping people off with his worthless investment schemes," Attorney General Brown said. "Most recently, he convinced 99 consumers, including a doctor, lawyer and aerospace engineer, to invest tens of thousands of dollars in property which does not exist."

Today, the Honorable Judge Charles Gill sentenced Theodore Swain to 24 years in state prison and ordered him to pay \$6.7 million in victim restitution.

Swain used professional looking mass-mailings, directed at tens of thousands of people in southern California, to entice investors into conducting business with First Fidelity Assurance Corporation, based in San Diego.

Swain successfully tricked 99 consumers, between 2003 and 2006, into investing between \$1,000 and \$100,000 in mortgage certificates for properties which did not exist. Swain produced an elaborate and flashy looking investment prospectus, which promised 10% returns on real-estate projects requiring quick financing during the housing boom.

"This was a very convincing Ponzi scheme," said Deputy Attorney General Tawnya Boulan who prosecuted the case jointly with the California Department of Corporations. "Swain was very persuasive and ripped off sophisticated investors by maintaining an appearance of success."

Swain used cash from new investors to pay dividends to old investors, thereby perpetrating his fraud for several years. Swain never disclosed to investors that he had been convicted of grand theft three times and had previously filed for bankruptcy. Under California law, individuals selling investments must disclose any information which might factor into a consumer's decision on whether or not to invest.

Swain's only source of revenue for the scheme was new investment capital from new investors. He strung people along for nearly three years, ripping off a total of \$7 million. About \$300,000 was occasionally returned to some investors as a way to convince them to stay involved in the fraudulent scheme and lend an air of legitimacy to the operation.

In 2006, Swain was arrested in New Mexico following an investigation by the California Department of Corporations. During the investigation, the attorney general obtained a court order to freeze \$2 million in Swain's assets and property, money which will be used as restitution for victims of the fraud.

In 2008, after a five-week trial, a San Diego jury found Swain guilty of 15 counts of fraud, 6 counts of grand theft, 3 counts of grand theft of an elder, and 6 counts of running a fraudulent securities scheme. The jury also imposed an excessive taking and white collar crime enhancements of \$2.5 million.

"It is devastating when the financial well-being of California citizens falls into the hands of a con man that uses trickery and deceit," said Sean Rooney, Senior Trial Counsel for the California Department of Corporations. "Today's sentencing sends a message that swindlers like Theodore Swain will be thoroughly investigated and prosecuted under California law."

The trial was jointly prosecuted by Deputy Attorney General Tawnya Boulan and Sean Rooney, Department of Corporations Counsel.

For more information on today's sentencing please contact the California Department of Corporations at (916) 322-7180.

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