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Fen-phen lawyers ordered to pay \$62M

BY BRETT BARROQUERE | THE ASSOCIATED PRESS

BURLINGTON - Three attorneys accused of bilking their clients in a diet drug settlement must repay at least \$62.5 million, a judge ruled Friday.

Special Judge William Wehr ordered William J. Gallion, 56; Shirley A. Cunningham Jr., 52, and Melbourne Mills Jr., 76, to repay \$42 million taken from the settlement and \$20.5 million they put into a corporation, the Kentucky Fund for Healthy Living.

The attorneys are being sued by about 400 former clients who claim the lawyers took too much as part of a \$200 million fen-phen settlement.

A federal grand jury indicted the attorneys last month, charging them with conspiring to commit wire fraud. The lawyers, who were temporarily suspended by the Kentucky Bar Association, have pleaded not guilty.

Wehr previously ruled that the three attorneys breached their duty.

Wehr, in a four-page ruling, said Cunningham, Gallion and Mills overpaid themselves by misappropriating about \$64 million.

Phone and e-mail messages left for the attorneys were not returned.

Lawyers for Gallion, Mills and Cunningham had argued that having a civil damages trial before the criminal trial could force their clients to choose between testifying on their own behalf and their right not to incriminate themselves. The attorneys have previously testified in depositions and provided bank and financial records in the civil case.

Wehr found last year in the civil case that the lawyers had breached their duties and paid themselves millions more than what they were owed, more than \$20 million apiece. In April, he said they would have to repay up to \$64.4 million they misappropriated, minus legitimate expenses.

The 440 plaintiffs collected about \$74 million of the \$200 million settlement.

Cincinnati lawyer Stan Chesley negotiated the settlement. Wehr hasn't ruled yet whether Chesley also breached his fiduciary duty to clients, and has set a Sept. 20 trial date for Chesley.

Angela Ford, a Lexington-based attorney representing the former clients, said Chesley is just as responsible as Mills, Cunningham and Gallion. Chesley has denied any wrongdoing.