

Posted on Tue, Aug. 14, 2007

Judge grants jailed lawyers new hearing

By BRETT BARROQUERE
Associated Press Writer

Three lawyers jailed while awaiting trial on charges of bilking clients of millions of dollars in a diet drug settlement will get a chance to argue for their freedom while awaiting trial.

A federal judge has scheduled a hearing for Aug. 21 for William Gallion, Shirley Cunningham Jr., and Melbourne Mills. Gallion and Cunningham are minority owners in Preakness winner Curlin.

In a two-page order issued Tuesday, U.S. District Judge William Bertelsman also required the federal probation office to calculate the maximum and minimum sentences the men could face and prepare a comprehensive financial statement of all three lawyers.

Bertelsman did not say what prompted the hearing, only that there is now information not known when he sent them to jail. All three men appealed their jailing.

Lawyers for the attorneys did not immediately return a call for comment.

Angela Ford, a Lexington lawyer who represents more than 400 former clients in a civil case against the three men, said the financial statement would be the first time Gallion, Cunningham and Mills would account for what happened to the funds they received from the settlement.

Special Judge William Wehr is expected to order the three attorneys on Thursday to turn over financial records in the civil case, Ford said.

"Up until this time, Judge Wehr thought it was premature," Ford said.

On Friday, Bertelsman agreed to the lawyers' request to push their trial date back to Jan. 7, 2008, but ordered the men held until then. The trial had been set for Oct. 15.

In sending the men to jail, Bertelsman noted that they have yet to account for the money in question and that a civil court has ruled that they owe at least \$42 million to their clients. That makes the men a flight risk, Bertelsman wrote.

The three lawyers were found in the civil case to have defrauded more than 400 clients in a \$200 million settlement involving the diet drug fen-phen. The 440 plaintiffs collected about \$74 million of the settlement.

Cunningham, 52, and Gallion, 56, bought Curlin for \$57,000 as a yearling through their Midnight Cry Stable. They sold controlling interest in the horse in February for a reported \$3.5 million to a group composed of Jess Jackson, founder of Kendall-Jackson wines; Satish Sanan's Padua Stables; and George Bolton, an investment banker.

Gallion and Cunningham retained a minority interest and were in the winner's circle after the 3-year-old won the Preakness on May 19.

Curlin was third in the Kentucky Derby and second in the Belmont Stakes.