

Penny Stocks, Big-Bucks Fraud --- Aided by a Tipster, Feds Bring a Vast Scheme to Light

By Eric J. Savitz

2,455 words

6 December 1993

Barron's

PAGE 19

English

(Copyright (c) 1993, Dow Jones & Co., Inc.)

WHEN last we left him, in a Barron's story on March 25, 1991, the admitted pennystock flim-flam artist Barry K. Davis was dividing his days between two pursuits. Some of the time he was providing hot tips to investors, via a 900-number telephone service called Wall Street Watch. The rest of the time he was providing hot tips to the government, finking on his friends and trying to keep himself out of jail.

Sometimes, hot tips pay off big time.

In mid-November, the U.S. Attorney's office in Newark, N.J., announced the indictment of five men tied to Davis, accusing them of wire fraud, securities fraud and criminal conspiracy in the manipulation of several over-the-counter stocks in 1988. The stocks included Vista Capital Corp., Castleton Investors Corp. and Bellatrix Corp.

That trading in those issues wasn't entirely kosher is no revelation: In February 1991, Davis pleaded guilty to three counts of wire fraud and one count each of securities fraud and conspiracy for his part in the manipulation of at least five stocks -- including Vista, Castleton and Bellatrix.

The defendants in the case face a maximum penalty of five years in prison and a \$250,000 fine for each count. Under the complex federal sentencing guidelines, Davis faces the prospect of 37 to 46 months in the pokey, although the judge will take into account his cooperation with the prosecution. And the government apparently has kept him busy. More than two years after entering his guilty plea, Davis has yet to be sentenced -- and no date will be set until the completion of his cooperation.

Which is not to say Davis won't soon be spending some time in court. When the five go to trial, likely some time next year, Davis will undoubtedly be the prosecution's star witness, and his command performance will make a lot of people nervous.

"Who do you think in the penny-stock market didn't do something wrong?" thundered the always-loquacious Davis in an interview with Barron's in 1991. "My answer to you is that every single person I know did something wrong. If you called me on the phone, you did something wrong. . . . Major cases are going to get popped. And major people."

Indeed. The information supplied to the government by Davis and the other admitted conspirators, in combination with wiretapped conversations and other evidence, has helped unveil a complex ring of stock fraud reaching into the ugliest corners of the securities business. By the government's count, the scheme involved more than 100 people at brokerage firms across the country. A brief look at the cast of characters and how they do business should make anyone think twice about investing in penny stocks and blind pools.

The five men recently indicted raises the number of accused or admitted participants in the scheme to 11. Including Davis, six have pleaded guilty and agreed to cooperate with the government.

The first four pleas came in April 1990, all from persons associated with Sheffield Securities, a defunct Fort Lauderdale, Fla., brokerage that underwrote initial public offerings for Vista, Castleton and Bellatrix.

John LaSala, who owned one-third of Sheffield, pleaded guilty to conspiracy and wire fraud. Allen Weinstein, a one-third owner who professed to own two-thirds of the firm, pleaded guilty to conspiracy, as did Sheffield trader Ronald Spencer. Ronald Martini, who secretly owned one-third of Sheffield, pleaded guilty to conspiracy, wire fraud and securities fraud. Martini, LaSala and Spencer all admitted to aiding Barry Davis and his associate Eric Wynn in manipulating trading in Castleton, Bellatrix and Vista shares; Weinstein's charge related to helping Martini conceal his ownership position in Sheffield.

(An obvious reason for keeping Martini's involvement with Sheffield a secret was the problem of registering an admitted felon as a securities industry principal. In 1979, Martini and two other men, Frank Coppa and Francis Orofino, pleaded guilty to fraud charges stemming from trading in Tucker Drilling Co. In an unrelated case the same year, Martini pleaded guilty to one count of passing a forged instrument.)

The other admitted conspirator is Douglas Selander, a former broker at L'Argent Securities in Minneapolis. In December 1990, he pleaded guilty to one count of conspiracy for his part in manipulating six stocks, including Castleton, Vista and Bellatrix.

Among the newest group of defendants -- all of whom last week pleaded not guilty -- the biggest fish is clearly Eric Wynn. The government contends Davis and Wynn were the masterminds behind the stock manipulation scheme on which all the charges are based.

In entering his guilty plea, Davis asserted that Wynn was responsible for choosing stocks to be manipulated and for planning overall strategy. Davis said his own role involved directing the day-to-day trading activities in those stocks conducted by brokers and promoters around the country, including the other defendants. Wynn, 34, of West Milford, N.J., faces 13 counts of fraud and conspiracy.

According to the indictment, the principals of Sheffield Securities allowed Wynn and Davis to control the distribution of shares in the Vista and Bellatrix IPOs, allowing the two to gain direct or indirect ownership of almost all the stock of the two blind pools. The indictment says that Davis and Wynn helped arrange merger partners for Vista and Bellatrix, and then advised certain of their co-conspirators of their plans before making required public disclosures. Similarly, the government contends Sheffield assisted Davis and Wynn in gaining control of a majority of the free-trading shares of Castleton, a company that went public in 1986.

Once the three companies were under their control, the government asserts, Davis and Wynn artificially inflated their share prices, thanks in part to the cooperation of brokers and traders who bought and sold securities as Davis and Wynn directed. As payback, the government says, the cooperating brokers received all sorts of goodies: free securities, securities below the manipulated market price, guaranteed profits, cash, promised participation in future offerings of manipulated securities and assistance in their own stock manipulations.

This is not Wynn's first brush with the legal system. In 1991, while Davis was entering his guilty plea, Wynn was serving a three-year sentence in Federal prison in connection with a 1989 guilty plea to two felony counts in an unrelated stock fraud. In that case, Wynn was charged with siphoning off \$640,000 from stockholders of a defunct jewelry company called Renaissance Enterprises.

Related charges against Wynn's wife, Annabelle Salaverria Wynn, were dropped, but a third defendant, Francis LaMagra, was convicted on four felony counts and sentenced to three years. In 1988, in a separate case, LaMagra received a one-year prison term for conspiring to prepare false tax returns for Louis "Louie Ha-Ha" Attanasio, a capo in the Bonnano crime family. According to the government's indictment in that case, Attanasio "received substantial income from loansharking and conducting an illegal gambling business."

Renaissance had been underwritten by Monarch Funding, a defunct New York brokerage firm that sits at the center of yet another complex stock fraud. The Monarch case, which centered on trading in Liquidation Control Inc. and Toxic Waste Containment Inc., led to the 1989 indictment of Monarch founder Leo Eisenberg, former Wood Gundy research analyst Richard Cannistraro and the stock promoter Richard Bertoli. Both Eisenberg and Cannistraro pleaded guilty to charges connected with the case. Bertoli, who was tried and convicted, is scheduled for sentencing later this month.

The Monarch case has several ties to the Davis case. That's clear from Eisenberg's testimony at Bertoli's trial. Eisenberg said the stock promoters who participated in the Monarch scheme included both Frank Coppa, Ronald Martini's co-defendant in the Tucker Drilling case, and Eric Wynn. Neither Coppa nor Wynn were indicted for their role in the Monarch Funding case, although both once worked at Monarch.

Among the other newly indicted co-defendants, the most prominent name is Anthony Nadino. (According to records of the National Association of Securities Dealers, Nadino's original surname was Nadratowski.) Nadino, 49, of Colts Neck, N.J., heads the trading desk at Hibbard Brown & Co., a brokerage firm currently fighting civil fraud charges in an unrelated case filed by the Securities and Exchange Commission in federal court in Manhattan. A longtime associate of penny-stock king Robert Brennan, Nadino was once head trader at First Jersey Securities, where he worked for more than 12 years. (The two men also have a family link: Brennan's wife and Nadino's wife are sisters.)

Besides the indictment, under which he's charged with four felony counts, Nadino faces two pending complaints from the NASD. In a case filed in July, the NASD alleges that Nadino and Hibbard Brown charged excessive markups in about 6,200 transactions in 1991. A year earlier, the NASD charged that Nadino and his firm "engaged in a manipulative, fraudulent and deceptive scheme" by acquiring all of the outstanding warrants of a company and then "engaging in a massive sales effort" to customers without disclosing that it controlled the stock.

In 1986, Nadino had been suspended from association with any NASD member firm for 10 days and fined \$25,000 in partial settlement of NASD allegations that in 1983 First Jersey had charged customers unfair and excessive markups. In the same case, in which the defendants agreed to the penalties without admitting guilt, First Jersey paid a \$300,000 fine and Brennan coughed up \$25,000.

Another defendant in the case who has long haunted the penny-stock world is Perry "Pericles" Constantinou, 60, a Manhattan-based promoter indicted on four felony counts in the Davis case. Constantinou has been battling securities regulators for decades. In his most recent previous brush with the law, Constantinou in 1990 pleaded guilty to five felonies in connection with the role played by his firm, World Wide Capital Corp., in the manipulation of the IPO and after-market trading of Memory Protection Devices and Memory Metals. (Barron's ran stories detailing the Memory Metals saga in 1986 and 1987.) Constantinou was placed on probation and ordered to pay restitution of \$327,909.

The SEC had barred Constantinou from the investment business in 1975 for the part played by Provident Securities, a brokerage firm he controlled, in the manipulation of a company called Fantastic Fudge. (Among Provident's officers was Sheffield's secret co-owner, Ronald Martini.) Also in 1975, a federal court found that Constantinou assisted a group led by fugitive financier Robert Vesco in a complex stock manipulation involving a company called International Health Sciences.

Also indicted on four counts is Irwin Frankel, a 31-year-old resident of Hialeah, Fla., who at the time of the alleged conspiracy was a registered representative for both Corporate Securities Group, of North Miami Beach, Fla., and a defunct New City, N.Y., firm called Allegiance Securities.

While not as infamous as some of his alleged co-conspirators, Frankel is not exactly an altar boy. In 1989, Allegiance signed a consent agreement with New York State Attorney General Robert Abrams to terminate an initial public offering for a Denver company called Superconductive Technologies Inc. Abrams alleged that the company's promoters "tried to get rich quick by cashing in on the public's interest in high-technology superconductors."

According to Abrams, Superconductive and Allegiance failed to disclose that one of the company's promoters, Joseph Pignatiello, another well-traveled denizen of the penny-stock world, was associated with Power Securities, a defunct brokerage that earlier this year was ordered by a federal judge to pay \$25.6 million in profits and interest for allegedly fraudulent stock sales.

As part of the consent agreement, Allegiance and its principals -- Irwin Frankel and Frank Grillo -- were barred from underwriting securities for three years. The NASD revoked Frankel's registration as a broker in August 1990.

Brad Haddy, a 42-year-old broker indicted on four counts, formerly worked at L'Argent Securities, alongside admitted conspirator Douglas Selander. Now a registered representative at Kennedy Mathews Landis Healy & Pecora, a Minneapolis brokerage firm, Haddy doesn't have a clean record, either. In 1986, the NASD suspended him from associating with any member firm for 60 days, following allegations that he wrote four checks drawn on his employer's bank account without authorization and retained the proceeds.

Completing this rogues' gallery, of course, is Barry Davis, ne **Barry Sutz**. The SEC threw him out of the securities business in 1971, citing his violation of capital requirements and other regulations as president of Sutz & Ross, a Valley Stream, N.Y., brokerage firm. In 1975, the New York State Department of Insurance revoked the license of his insurance agency, Sutz & Sutz, citing hundreds of customer complaints. Later on, Davis went into the public-relations business. The activities described in the indictment took place while he was running a PR firm called Princeton Financial.

In September 1989, Davis agreed to pay the state of New Jersey a civil penalty of \$50,000 to settle allegations that he'd provided investment advice without registering in the state; he agreed to be permanently barred from the securities business in the Garden State. At the time, Davis was tied to a Fort Lee, N.J., telephone hotline service called Traders & Investors Alert. The firm offered recorded stock advice, and for an extra fee, personal consultations with Davis.

It didn't take Davis long to violate the ban -- two months later he was heard on the same hotline, reportedly calling in his tips from a Chinese restaurant in New York City to circumvent the New Jersey-imposed ban. The state then sued Davis to recover the \$50,000 fine -- the check he wrote to cover the first installment of the penalty bounced. (He later paid in full.) Davis later found his way back into the telephone hotline business in Piermont, N.Y., with Wall Street Watch.

All five of the recently indicted defendants contend they did nothing wrong. Wynn, Nadino and Constantinou declined to discuss any details of the case. Frankel's attorney says he and his client have no comment, either. Haddy admits that he had discussions with Davis and Wynn both in person and on the phone, but says "it's something I feel innocent about." Nadino's lawyer, Michael Critchley, admits that his client "knows Eric Wynn, in a business sense," but contends he did nothing improper.

And Barry Davis?

For once in his life, he's got nothing to say.

Document b000000020011031dpc6001h5