

Trial begins in Memphis prepaid funeral trust funds case

Advisor blames Clayton Smart for duping

By Kevin McKenzie

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The trial of a Pennsylvania investment bank financial adviser accused of helping to loot prepaid funeral trust funds in Memphis opened Wednesday with starkly different arguments.

A state prosecutor told a Criminal Court jury that Mark Singer, 44, provided the financial savvy from the beginning that allowed two men from Oklahoma to purchase Forest Hill funeral and cemetery businesses in 2004 and drain millions from trust funds in two years.

"They took money out of the Forest Hill trust accounts and they put it in their own," state prosecutor Byron Winsett said during opening arguments.

However, defense attorney Robert F. Katzberg of New York said Singer -- like state regulators in Tennessee and Michigan and officials at big investment banks -- had been fooled by Clayton Smart, a 70-year-old from eastern Oklahoma who falsely claimed to be a wealthy oil and gas businessman.

Katzberg said Singer, a financial adviser with Deutsche Bank and then Smith Barney at the time, intended to help Smart transplant to Tennessee a new investment bank strategy for cemetery trust funds that had worked in Michigan.

"What really matters is whether Smart lied to Singer," Katzberg said.

The trial opened Monday with the announcement from Smart's lawyers that he is likely to plead guilty to state charges in Memphis and Michigan, where he purchased cemeteries and gained control of trust funds, and to federal charges.

Singer, Smart and Smart's former business partner, Stephen W. Smith, 63, were indicted together on 16 counts including conspiracy, theft and money laundering.

Smith and Smart, who has been in [Shelby County Jail](#) since May 2007, are to appear before Judge W. Otis Higgs Jr. on April 20.

Meanwhile, Singer's trial in Higgs' courtroom is expected to last six weeks.

Trimming the charges to fit Singer rather than all three co-defendants, state prosecutor William Bright announced that Singer won't be tried on nine counts of theft. That leaves Singer facing one count of conspiracy, one of theft and five of money laundering.

Smart divulged in summer 2006 that Forest Hill wouldn't honor more than 13,000 prepaid funeral contracts in full, although the state stepped in to help.

Winsett said that when sold to Smart, the Forest Hill trust funds held \$27 million in life insurance policies to back future costs customers had paid for. After Smart took control, the policies were cashed in, producing about \$12.2 million. The fund held about \$1.5 million when Smart's lack of wealth became apparent.

The trial is set to resume Monday.



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