

# Scales of justice weigh grocery-store scheme

By DAVID AMBRO

While the prosecuting attorney painted Charles DeFranco, 45, of Tap Court, Nesconset as a con man with a mounting list of victims, his defense attorney denied any scam or scheme to defraud and said his client is in the midst of a business arrangement that he will make good on.

Mr. DeFranco was arrested January 19, 2009 and charged with issuing a bad check March 2, 2008 with known insufficient funds, a misdemeanor. After an investigation by the Suffolk County District Attorney's office, spurred by a scathing report by John Deutzman on Fox 5 News, Mr. DeFranco was arrested July 6, 2009 and charged with scheme to defraud in the first degree, a felony. He was arraigned July 7 by District Court Judge John Toomey, who set bail at \$10,000 bond and \$5,000 cash, which was posted by his wife.

Mr. DeFranco has since been indicted by a grand jury on one count of scheme to defraud in the first degree and possession of a forged instrument in the second degree. He was arraigned Monday, July 27 in Suffolk County Court in Riverhead before Judge Stephen Braslow, and pleaded not guilty.

The District Attorney's office alleges that Mr. DeFranco presented to potential investors a binder agreement August 28, 2008 signed by Harry Laufer, president of the Long Island grocery store chains Best Yet and Associated Foods, for a chain of grocery stores. Mr. Laufer, however, never signed the binder. Between December 1, 2007 and July 6, 2009 Mr. DeFranco is alleged to have used the forged binder to defraud numerous investors out of tens of thousands of dollars.

The indictment names only Steve Aghabekian as a victim of the alleged fraud, but Robert Hirsch and his brother Doug, of Splendor Landscape Design, both in court Monday, say they were bilked out of \$30,000 by Mr. DeFranco.

Assistant District Attorney Christopher Nicolino told the judge Monday that the value of the scheme is in excess of \$150,000 and that the case is subject of an ongoing investigation. He told the judge that the list of victims is growing and that the amount of the alleged scam is mounting.

Mr. Nicolino charges that Mr. DeFranco does not own a grocery store and never had a deal to buy others, yet he solicited investments in the fictitious enterprise. "He offered partnerships in a non-existent business venture at \$30,000 to \$60,000 a pop to anyone he could find interest from," Mr. Nicolino said. The victim pool included neighbors, friends, business associates and the people he met through the Nesconset Little League.

Mr. Brown denied the ADA's account of events. He said that Mr. DeFranco is a supermarket owner, and that he is pursuing the purchase of additional grocery stores. "This is not a scam or

a scheme and we are confident that he will make good on this," Mr. Brown said.

The Hirsch brothers sighed in unison in court Monday when Mr. DeFranco's attorney, Michael Brown, of Central Islip, professed his client's innocence. They had waited out front for hours for the defendant to arrive, then the Hirsch brothers sat a row behind Mr. and Mrs. DeFranco in court and they followed them out of the courthouse Monday afternoon, waving as the DeFranco's drove off.

"There is no grocery store," Robert Hirsch said after court Monday. "It's all a scam."

Mr. Hirsch said he and his brother came to court Monday for the arraignment to watch Mr. DeFranco face the charges. "Just to see his face. I haven't seen him in months. I wanted to see if he would be at all remorseful," Mr. Hirsch said. "He was just the opposite. He smiled and acted as if he did nothing wrong."

Considering that Mr. DeFranco missed his arraignment Friday, July 24 and showed up nearly three-hours late for his arraignment Monday, Mr. Nicolino asked Judge Braslow to increase Mr. DeFranco's bail from \$5,000 cash and \$10,000 bond to \$10,000 cash and \$20,000 bond.

Mr. Brown pointed out to the judge that Mr. DeFranco has no prior criminal record, is the father of three children with his wife Penny, and that they have lived for eight years in their Nesconset home. Mr. Brown said it was due to confusion among the attorneys and court that Mr. DeFranco missed the arraignment Friday, and that he was late for court Monday because of a legitimate reason that he declined to put on the record in court, and that it was justifiable for him to have been tardy. (Mr. DeFranco had reportedly checked in to University Hospital in Stony Brook for a psychological evaluation. Mr. Brown held up the paperwork in the matter in court Monday, but declined to elaborate.)

Judge Braslow was displeased with Mr. DeFranco's absence from court Friday and had threatened to issue an arrest warrant until he was advised that the court staff had agreed to an adjournment to Monday, July 27. In Court Monday, Mr. Brown said he had a faxed letter from the court that said the case was on for Wednesday, July 29, but that he agreed to have his client there Monday after having received a telephone call from the DA's office.

Mr. Brown denied that Mr. DeFranco is a flight risk, said that he understands the seriousness of the charges against him, and that he will not be late for court again. "He has nothing but Suffolk County in his background judge. He certainly is no flight risk," Mr. Brown said.

After conferencing in a sidebar with his law clerk, Judge Braslow continued the same bail and did not increase it to the level asked by Mr. Nicolino. He then told Mr. DeFranco that if he is not on time for court in the future he will be incarcerated on bail so high that he



**CALLED A CON MAN:** Court officers escort Charles and Penny DeFranco, of Nesconset, to their car after Mr. DeFranco was arraigned on a scheme to defraud indictment in Suffolk County Court in Riverhead Monday, July 27.

-David Ambro photos



will not be able to make. "And none of this fake hospital stuff, and that's what I consider it," Judge Braslow told Mr. DeFranco.

Mr. DeFranco was accompanied to court Monday by his wife Penny, who had posted his bail July 6. Judge Braslow called Mrs. DeFranco to the podium, swore her in and asked if she agreed to transfer the bail from district court to county court. Mrs. DeFranco agreed, then she sat back down.

During an interview in the courthouse Monday, Mr. Brown said the charges against Mr. DeFranco are a misunderstanding between he and his investors that does not rise to the level of a crime. "Mr. DeFranco is a well respected father, husband, coach and businessman in the community and I'm sure once the facts come to

light it will be clear there is no criminal wrongdoing and it would be in the best interest of everyone that this case would be best left for the civil courts."

When Mr. DeFranco arrived for court Monday afternoon, Mr. Brown told court officers in Judge Braslow's courtroom that he had been pushed by a television news reporter at the entrance to the building. Mr. DeFranco declined to comment after the arraignment Monday, and he was escorted by court officers from the courtroom to his car in the parking lot.

"What if they're at my house?" Mr. DeFranco asked Mr. Brown before they parted in the parking lot with the court officers. Mr. Brown told him if the news crew was at his home to call police.