

The Star-Ledger

Justice in his wake



ANDREW MILLS/THE STAR-LEDGER

Securities fraud investigator Rick Barry takes a morning walk along the beach in Mantoloking. He leaves his job as chief of enforcement for the state Bureau of Securities with several high-profile cases under his belt, including the Robert Brennan case.

Top investigator moving on after a career spent foiling fraud

BY OREG SAITZ
STAR-LEDGER STAFF

Rick Barry's career path to becoming New Jersey's top securities fraud investigator started almost 40 years ago — on a surfboard.

Then it took a left turn counting heads at Bruce Springsteen concerts down the Shore, a right driving dump trucks, another right painting homes, a left operating a jackhammer, a right running a landscaping business and a jughandle managing a charter sailboat business in the Virgin Islands' St. Thomas.

All in all, it turned out to be pretty effective training for a man who's spent almost 30 years at the state Bureau of Securities unraveling the doings of fraudulent brokerage firms, stock manipulators, deceitful brokers and legions of others trying to pull a fast one in the securities industry.

"Rick Barry is probably one of the finest securities fraud investigators in the country,"

ERNEST BADWAY,
a Roseland defense attorney

"For some reason, maybe it's all the crazy things I did before I had this job, I've been able to read people pretty well," said Barry, 57, who is leaving his job as chief of enforcement for the bureau at the end of the year to take a job with the Livingston accounting firm Sobel & Co.

While at the bureau, Barry has been involved in almost every major securities fraud case the state has pursued, from the corrupt penny stock firm F.D. Roberts Securities to financier Robert Brennan, who owned First Jersey Securities.

Barry also has played a role in many national investigations in the industry, including the mutual fund market timing cases and, more recently, auction rate securities, which led to several multibillion-dollar settlements with financial institutions.

"Rick Barry is probably one [See BARRY, Page 22]

RICK BARRY

Age: 57

Hometown: Point Pleasant

Family: Wife; two sons and a daughter, all grown

Career: 1979-83, 1985-2008, state Bureau of Securities, chief of enforcement since 1986; NYSE, trading surveillance investigator, 1983-84

Next Step: Director of securities litigation, in forensic consulting group, Sobel & Co., Livingston

Favorite Hobby: Surfing

Morning routine: Walk the beach at sunrise with his golden retriever, Savannah

Favorite surfing spot: Carrot Bay, St. Thomas, U.S. Virgin Islands

Best wave: Supertubes Beach, Jeffreys Bay, South Africa

Words to live by: "A big case is like taking off on a big wave. You don't want to make a mistake on either one, certainly not a fatal mistake."



BARRY

CONTINUED FROM PAGE 21

of the finest securities fraud investigators in the country," said Ernest Badway, a Roseland white-collar defense attorney with Fox Rothschild, who worked with Barry when he was an enforcement lawyer with the Securities and Exchange Commission in the mid '90s.

"It's going to be a terrible loss (that) he's no longer going to be with the bureau," he said. "Quite frankly, I'm not sure how those shoes are ever filled."

A LATE START

Barry started with the state in 1979 after graduating from what is now Monmouth University. He spent much of the previous decade surfing his way around the United States and the Caribbean.

"I would say there's probably nothing more I wanted to do with my life when I was 17 than surf," Barry said. "Actually, I've never lost my affection for surfing. I suppose, if I had the option, I would be doing that full time. I just lost that option somewhere along the line."

His first assignment was following up customer complaints about limited partnership investments being offered by a father-son team. Within four months, Barry said the bureau had put together the largest fraud case in its history.

Other cases followed, including investigations of penny stock firms Kobrin Securities of East Brunswick and F.D. Roberts Securities, an organized crime-financed brokerage based in Paramus that was

forced out of business in 1990. But his most difficult and time-consuming case involved Brennan, the brash Newark native who made tens of millions of dollars selling investors low-priced stocks.

By the time Barry started seriously investigating Brennan, federal securities regulators and the National Association of Securities Dealers already had accused him and his firm on multiple occasions of ripping off investors.

In several instances, Brennan escaped those legal battles victorious. Early in the case, Brennan was cordial to Barry, even inviting him to the annual Fourth of July fireworks display at Brennan's Monmouth County home, Barry said.

Then, in 1992, Barry filed papers in another court case laying out an investigation that alleged Brennan made \$69 million in profit from selling a penny stock aggressively promoted by two brokerage firms.

Brennan responded by filing a \$50 million lawsuit against Barry and his boss, alleging Barry leaked information to reporters about the investigation and filed the court affidavit to cover his tracks.

In an interview with The Star-Ledger at the time, Brennan accused the investigator of pursuing him for years and said Barry wanted to "accomplish extra legally what he was unsuccessful and always will be unsuccessful at accomplishing legally in a proper and honest forum."

The lawsuit eventually was dismissed. A few years later, Brennan was ordered to repay \$75 million in a federal civil case for defrauding

investors and agreed in 1999 to settle the state's allegations for \$100 million.

In 2001, Brennan was convicted of bankruptcy fraud. He is now serving a 12-year federal prison sentence.

"It clearly was never a goal of mine to investigate Brennan and if I could have avoided it, I would have," Barry said. "Except for one thing: I have always felt in the simplest terms, every agency at any given time is never fully staffed.

"So, even in the best of times you have limited resources and you have to make decisions," he said. "Those decisions should be that you go after the greatest evil. And if you don't have the courage to go after that, then somebody else should take your job."

Joseph Borg, director of the Alabama Securities Commission who's known Barry for years, said, "He was never afraid of who it may be, retaliation or politics. He was never scared."

PLENTY OF STORIES

Don Robinson, a Brennan attorney who filed the complaint against Barry, said earlier this month Barry was a "careful, dogged investigator." Others who've worked with Barry described him as tenacious and intuitive with a knack for eliciting information from people who wouldn't otherwise talk.

"Rick is a good conversationalist," Borg said. "He's got plenty of stories and he has a way of getting people to talk about themselves. He should have been a lawyer."

During one investigation of improper sales techniques at a brokerage firm, Barry had a employee

come in for questioning. Because the bureau had an undercover investigator in the brokerage, Barry said he knew the employee had used improper sales methods.

But during the interview, the broker denied it. So Barry decided to take a break, telling the broker's attorney before he left he knew the client was lying and could prove it.

Barry said he purposely left behind a manila folder, on which he had written the broker's name and "tape recordings." He also put a blank cassette tape inside the folder.

When Barry returned 20 minutes later, the broker was in a waiting room "sweating in the fetal position, so I knew they looked in the file and saw the tape," he recalled. The broker immediately admitted his conduct.

Frank Widmann, who served as bureau chief for 10 years until 2007, said he and Barry often would talk about what was the fair thing for them to do in cases "because sometimes people are bad and evil and other times they just don't know what they're doing, get in trouble, get in over their heads."

For his part, Barry credited his colleagues and the work of the North American Securities Administrators Association, which comprises mostly state securities regulators. He also said he loves what he does at the bureau.

"I'd still be doing it if I could afford it," he said. "For me, it's a little bit like surfing. You paddle out and you take off and you see where that takes you."

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