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Ponzi Scheme

Guilty Plea Accelerates Massive Fraud Civil Case

By Vesselin Mitev

A GUILTY PLEA in a criminal case has spurred what could be one of the largest civil cases in recent Nassau County Supreme Court history, as dozens of retirees who lost money in an investment Ponzi scheme led by a Huntington financial advisor to elderly investors try to recoup their losses.

Peter J. Dawson, 50, pleaded guilty last month in County Court to two counts of grand larceny and one count of scheme to defraud. He will receive a sentence of between five and 15 years in prison when he is sentenced on Feb. 29.

"As a condition of his plea he agreed to cooperate in the civil matters," said Peter J. Tomao of Garden City, Mr. Dawson's attorney, who predicted that his client's testimony would be vital to the retirees' effort to recover their money.

In the allocution accompanying his guilty plea, Mr. Dawson referred to his clients as "victims" of his scheme but asserted that banks, brokerage firms and insurance companies "all profited from this strategy."

Mr. Dawson admitted committing fraud but also pointed to what he claimed were "inappropriate business practices, improper supervision of employees, agents, transactions and clients" by the companies with whom he dealt.

"I was able to perpetrate this fraud because I was not supervised by the various companies with which I was associated," he stated. "Looking back, I am appalled that these [independent] companies did not realize how

sick I was. The banks, investment companies, brokerage firms, insurance companies and others received deposits...which were clearly not permitted. If only these companies had properly supervised me and my companies as they had the legal and moral obligation to do, these people would not have been hurt."

Mr. Dawson's former clients are seeking more than \$200 million in damages from him, his wife and employees and companies he established; as well as mortgage lenders and brokers, and former employers and insurance companies for which he acted as an agent.

Among the claims they have filed against the defendants not related to Mr. Dawson—who are more likely to have the funds to pay any judgment—are negligence, aiding and abetting, breach of contract, failure to supervise, and breach of [borrower] suitability obligations.

However, the defendants are taking the position that Mr. Dawson alone is responsible for any wrong-doing.

The case—*Hennessy v. Dawson*, 06-019368 Index No. 07-006697; *Frawley v. Dawson*, 07-13770, and *Miller v. Dawson*, 07-13770—has presented an unusual logistical challenge for Supreme Court

Justice F. Dana Winslow: how to make easily accessible to numerous parties 750,000 pages of documents outlining money trails, investment accounts and other related matters.

"[T]he Court...examined the secure area containing the Dawson files and finds that all of

the parties, particularly with equipment, could not fit within the secure area," wrote Justice Winslow in an order issued Dec. 21, 2007. "The chain of custody must be maintained, for obvious reasons, including, but not limited to the need for future official access and because after sentencing, Dawson will be in the custody of the Department of Corrections."

Justice Winslow has selected DOAR, a Lynbrook company that specializes in litigation document management to convert the hard copies into electronic versions and store them on a Web site with a searchable database.

"The presentation of the data to each party will be, as the Court has suggested, electronic—on DVD, Web site with discrete access, or otherwise as determined to be secure, effective and readily accessible," wrote the judge.

"I thought about what is the best way to do this, to get all of the information and arrange for its dissemination," Justice Winslow said in an interview, adding he ruled out more conventional techniques like photocopying or scanning due to the prohibitive cost. "The agreement will make available all of the Dawson records to all the parties."

The cost now is estimated at under \$200,000 and will be borne by the parties. The exact breakdown is expected to be finalized in the near future, beginning with a conference today in Nassau Supreme Court.

Paul Neale, president of DOAR, said his teams have been working in multiple shifts through the holidays trying to complete the database, which will make documents searchable by keyword or year.

He said around 350 boxes of documents went into the database, which he said will be complete by the end of the month.

"It's a unique circumstance as the court is driving this as a way of effectively managing the case," said Mr. Neale. "One of the benefits of [having] so many parties is that the relevant cost per party is relatively nominal and indigent parties will have access to the information for free."

He estimated the cost per party to be between \$5,000 and \$8,000, depending on the number of participants.

Star Witness

Mr. Dawson, the likely central witness in the civil case, is a former investment counselor who ran several money management companies out of Uniondale before his arrest on Dec. 22, 2006, on a dozen counts of grand larceny.

In his allocution, Mr. Dawson admitted to defrauding investors, resulting in what plaintiffs allege resulted in the disappearance of millions of dollars in retirement and investment funds. As factors affecting his conduct, he cited a bipolar disorder, the prescription drug Xanax, and the impact of the terrorist attacks on Sept. 11, 2001.

"Mr. Dawson is under a great deal of stress—he attempted suicide prior to his incarceration," said Mr. Tomao, his attorney.

In addition to the three cases consolidated for pretrial discovery in Nassau, there are five federal cases pending, including one brought by the Securities and Exchange Commission, where Eastern District Judge Joseph F. Bianco will preside. Those matters, however, are on hold until the discovery phase in Nassau is complete. Whether Mr. Dawson's testimony will be used in the federal cases has not yet been decided, said Mr. Tomao.

"No provision has been made to use his deposition in federal court," said Mr. Tomao, adding that there would be no objection by his client if that were to happen. "He had to do what he could to help these people get their money back."

As Mr. Dawson is due to be sentenced in one month, attorneys face a shrinking window to obtain his testimony. Once he is sentenced, he will be transported to a state correctional facility and his cooperation can no longer be legally required.

"We are hoping he'll show us where the bodies are buried," said Jacob H. Zamansky of Manhattan's Zamansky & Associates, who is representing the bulk of the plaintiffs and is seeking Mr. Dawson's help in interpreting documents contained in the hundreds of boxes seized by police from Mr. Dawson's offices.

Mr. Zamansky's clients include a blind, retired New York City fire-fighter and an 88-year-old couple. He said Mr., Dawson's sales pitch persuaded them to take out mortgages on

homes that were already paid for to fuel his "steal from Peter to pay Paul" scheme.

"These were unsophisticated people that lost the money they were saving to live on," he said in an interview. He said that many face foreclosure.

According to Mr. Zamansky's complaint, Mr. Dawson persuaded retirees and elderly investors to entrust to him their savings and funds. He promised to pay their bills and to manage their investments. In particular, he advised clients to surrender life insurance policies and annuities issued by companies he served as an agent, including defendants Nationwide, American Skandia, First Allmerica, and AXA Equitable.

Among lenders alleged to have made "oppressive and unconscionable" loads were PHH Mortgage, First National Bank of Long Island, Countrywide, Homecomings, Washington Mutual, and Indymac Bank.

The complaint claims the lenders and defendant Mortgage Brokers Custom Capital and Oasis Mortgage ignored numerous "red flags" and knew or should have known about Mr. Dawson's fraud.

Mr. Dawson admitted in his allocution that he told people that "if they mortgaged their property I would invest the mortgage proceeds on their behalf when in truth or fact I knew that I deposited their money in accounts under my control and used it for other purposes."

Mr. Dawson paid his customers' bills for a while, but around October 2006 stopped

sending them money and making payments on mortgage loans, many of which are now in default.

In his allocution, Mr. Dawson admitted to having large gaps in his memory because of an addiction to prescription drugs. He stated he has not had an opportunity to review documents and does not have "direct information of all the actions taken by others regarding these matters."

However, Mr. Zamansky said, "Many of these companies knew or should have known what was going on—it is my belief that Dawson could not have done this all on his own," he said.

Meanwhile, several defendants have filed motions to dismiss the complaint.

"The moving defendants are not responsible for the wrongful acts of Peter Dawson," said Arthur C. Schupbach, who represents the First National Bank of Long Island. He said the bank made "just a couple of mortgages" to plaintiffs.

Steven S. Rand of Zeichner, Ellman & Krause, representing Countrywide Home Loans, had no comment.

In court documents, Invest Financial Corporation states: "Invest did not supervise the conduct or activities of Dawson or any other defendant in this case."

Barry R. Temkin of the Law Offices of Edward Garfinkel, who represents Investment Financial, was awaiting judgment on a motion to dismiss the complaint when reached for comment.