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COURTS

$5 million recouped for Nevin Shapiro's victims

A law firm agreed to a settlement while denying any wrongdoing in its relationship with convicted Ponzi schemer and tainted UM booster Nevin Shapiro.

BY JAY WEAVER
jweaver@MiamiHerald.com

A major Miami law firm that advised convicted Ponzi schemer and rogue UM booster Nevin Shapiro on his business dealings has agreed to pay $5 million to his victims in a proposed civil settlement with the trustee of Shapiro's bankrupt investment company.

Earlier this year, the bankruptcy trustee filed a lawsuit accusing Shook, Hardy & Bacon and one of its associates, Marc Levinson, of "aiding and abetting" Shapiro's violations of federal securities laws during his $930 million investment scam, as well as his violations of NCAA regulations involving his alleged cash payments to University of Miami star athletes.

The trustee sued to recover some of the $110 million lost by victims fleeced by the former Miami Beach businessman who headed Capitol Investments USA. Shapiro, 44, who pleaded guilty to securities fraud in 2010, is serving a 20-year federal prison sentence.

The trustee's proposed settlement was reached Friday with Shook, Hardy & Bacon, a 500-lawyer Kansas City, Mo.-based law firm, in what was described as a "compromise ... to avoid the further expense, inconvenience and burden of protracted litigation."

In particular, the Shook, Hardy & Bacon "parties expressly deny any liability or wrongdoing alleged in the lawsuit, "according to the proposed settlement, the result of mediation. The law firm reiterated that position in a statement, saying that, if approved, the "settlement agreement will conclude this matter."

U.S. Bankruptcy Judge Laurel M. Isicoff is expected to approve the agreement, as well as the trustee's contingency fee of $1.65 million, at a hearing scheduled Oct. 21.

Since Miami attorney Joel Tabas became the trustee for Shapiro's bankrupt business in November 2009, his legal team has recovered more than $35 million from various parties and distributed $13 million so far to about 40 victims. More distributions — including the $5 million recovery from Shook, Hardy & Bacon, the trustee's third largest clawback overall — are planned this year.

For its work, Tabas' law firm gets to keep about $13.5 million of the total take.

"We hope to distribute the balance of our recoveries by the end of the year and close the bankruptcy case," said Gary Freedman, the trustee's lead attorney who worked on the bankruptcy case with colleague Andrea Rigali.

The initial suit, filed in Miami federal court in January, was based on depositions by Levinson, who has been on administrative leave since last November, and other Shook, Hardy & Bacon lawyers, as well as internal law firm records, emails and Shapiro's financial documents.

A late August deposition scheduled with Shapiro, now in a North Carolina federal prison, was canceled because of the anticipated settlement.

Meanwhile, the NCAA is deliberating what penalties to impose on the University of Miami for its players' alleged acceptance of cash and other impermissible gifts from Shapiro.

When the trustee first filed suit, Shook, Hardy & Bacon, issued a statement saying it was "disappointed." The statement also said: "Nevin Shapiro deceived many people, including those closest to him, and is serving a prison sentence for his reprehensible conduct."

The firm's lawyers provided advice to Shapiro from 2003 to 2009 on his investment in Axcess Sports & Entertainment while he was a UM booster, as well as on his dealings with investors who lent him millions of dollars at high interest rates for his Miami Beach-based grocery brokerage business, Capitol Investments — the core of his Ponzi scheme.

The suit, which named Levinson and Shook, Hardy & Bacon as defendants, asserted they knew Shapiro broke NCAA rules and Florida law by acting as an unlicensed sports agent who recruited Hurricanes players for the NFL while providing them with cash and other gifts, such as parties at his Miami Beach mansion, on his yacht and at local strip clubs. Shapiro also claimed he supplied some of the UM athletes with prostitutes.

The trustee's complaint also asserted that in late 2006, Levinson became increasingly worried that Shapiro would be unable to repay new investors in his grocery brokerage business because he was using their money to pay off old investors. Shapiro also used millions to pay off his sport-fishing yacht, a North Carolina golf course resort deal and his mounting gambling debts, according to the bankruptcy suit.

Levinson finally asked one of Shook, Hardy & Bacon's attorneys to determine whether Shapiro was violating securities laws.

A December 2006 memo issued by the firm concluded that Shapiro was violating the Securities and Exchange Act. But "Levinson sat on the securities memo, afraid to deliver it and tell his best friend that he could be held criminally liable for violations" of the act, according to the suit.