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Judge Allows Petters Feeder Fund Lawsuit to Move Forward

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A bankruptcy judge said a major feeder fund to convicted Ponzi-scheme operator Tom Petters may move forward with a lawsuit to collect more than $4 billion in damages from General Electric Capital Corp .

Judge Paul G. Hyman of the U.S. Bankruptcy Court in West Palm Beach, Fla., on Friday ruled that Palm Beach Finance Partners LP may pursue a lawsuit accusingGeneral Electric Capital Corp ., of conspiracy to commit fraud. GE Capital 's lawyers in the matter couldn't immediately be reached for comment Monday morning.

At the heart of the lawsuit, filed by Palm Beach Finance's bankruptcy trustee, is the allegation that GE Capital , a lender to Mr. Petters' businesses, knew of Mr. Petters' Ponzi scheme years before his 2008 arrest but never disclosed its knowledge. Instead, GE Capital allegedly recommended Mr. Petters as a sound investment opportunity, which so-called feeder funds like Palm Beach relied upon when choosing where to funnel their investors' money.

Mr. Petters in 2010 was convicted of running a Ponzi scheme that bilked investors out of several billion dollars and is now serving a 50-year prison sentence. The Minnesota businessman, whose empire once included Polaroid and Sun Country airlines, has maintained his innocence and is currently seeking a sentence reduction to 30 years.

> "We're very pleased with the court's ruling and look forward to proceeding to a trial before a Florida jury," attorney Solomon Genet, who is

representing Palm Beach Finance's bankruptcy trustee, said in an interview Monday.

GE Capital asked Judge Hyman to throw out all nine of the lawsuit's claims against it, which the lender said were "untimely" and "flunk the test of common sense." GE Capital said it had no duty to investors like Palm Beach, with whom it didn't have any relationship and which didn't start investing with Mr. Petters until two years after GE Capital terminated its lending relationship with him.

Court papers show the judge threw out eight of the nine claims, including fraud, negligence and aiding and abetting fraud.

Another attorney for the bankruptcy trustee, Michael Budwick, said the remaining claim will seek to recoup the $1.1 billion that Palm Beach Finance's investors lost as a result of Mr. Petters' fraud, plus three times that amount in punitive damages.

Palm Beach first invested with Mr. Petters in 2002, after viewing a recommendation letter from lender GE Capital touting Mr. Petters and his businesses as an "excellent customer" who has "performed well," according to the lawsuit.

Palm Beach alleges that the letter was not only "atypical and extraordinary" but that GE Capital knew it to be false, discovering evidence of Mr. Petters' fraud before issuing the letter. According to Palm Beach, the reason GE Capital agreed to issue the letter was to secure repayment of more than $40 million that Mr. Petters' businesses owed the lender.

GE Capital last year paid $19 million to settle a separate lawsuit, this one brought by the bankruptcy trustee liquidating Mr. Petters' businesses, that claimed the lender knew, or should have known, of the Ponzi scheme.

Mr. Petters was arrested in 2008, and the six years that Palm Beach was invested with him led to its loss of more than $1 billion upon the collapse of the Ponzi scheme, making it one of Mr. Petters' biggest victims. As a result of the loss, Palm Beach filed for bankruptcy protection in November 2009.