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BMO Harris To Pay $16M To End Petters Ponzi Row

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BMO Harris Bank NA agreed Thursday to pay $16 million to settle an adversary suit launched by the trustee for two bankrupt Florida investment firms, which alleged a BMO unit helped convicted Ponzi scammer Thomas Petters bilk investors out of $3.7 billion.

Barry Mukamal, the liquidating trustee for Petters feeder funds Palm Beach Finance Partners LP and Palm Beach Finance II LP, asked a Florida bankruptcy court to sign off on the deal Thursday, which also includes a provision barring subsequent litigation against BMO and its affiliated parties.

PBFP will get 18 percent of the proceeds from the settlement, while PBF will receive the other 82 percent, according to the motion. The suit initially sought to recover $24 billion.

“After years of investigating and prosecuting these claims, this $16 million recovery will benefit many of the victims of the massive Petters fraud, the third largest Ponzi scheme in U.S. history,” Mukamal said.

BMO was targeted because of its unit Marshall & Illsley Bank, which BMO purchased in 2011. Mukamal alleged that M&I knew Petters was lying to his investors when he told them he made money reselling consumer electronics to big-box retailers such asWal-Mart Stores Inc. and Costco Wholesale Corp.

M&I officials had seen what Petters told his investors but knew no major retailers ever deposited money in Petters’ account, according to the suit, filed in September. These claims were added to a 2011 complaint against BMO that sought recovery of fraudulent transfers from just a few months in 2008. The later claims sought recovery of transfers made from 2002 to early 2008.

Mukamal alleged M&I played along with Petters as he sought to pacify an investor who wanted his individual payments closely tracked and repaid as the specific electronics he was seemingly funding were resold. Petters told M&I before a meeting with the investor that he had no intention of agreeing to the investor's demands, according to the suit.

M&I also allegedly saw billions of dollars flow through the account, which nonetheless kept a relatively small average daily balance, a key indication of money laundering, according to the complaint.

In December 2009 a Minnesota federal jury convicted Petters of running a $3.7 billion Ponzi scheme, handing down an unambiguous verdict that found him guilty of all 20 counts of fraud, conspiracy and money laundering he faced for allegedly masterminding the scam operated through his venture capital firm, Petters Co. Inc. He is currently serving a 50-year sentence.

PCI entered into Chapter 11 in October 2008, and its trustee has since launched more than 200 adversary proceedings in the bankruptcy case, seeking to clawback transfers made by the company in the run-up to the bankruptcy filing.

Mukamal is represented by Michael S. Budwick, Solomon B. Genet, Zachary N. James and Joshua A. Marcus of Meland Budwick, P. A. ,and David S. Mandel and Nina Stillman Mandel of Mandel & Mandel LLP.

BMO is represented by Charles W. Throckmorton and Corali Lopez-Castro of Kozyak Tropin Throckmorton LLP and Debra Bogo-Ernst, Lucia Nale and Joshua D. Yount of Mayer Brown LLP.

The adversary case is Mukamal v. BMO Harris Bank NA, case number 9:14-ap-01660, and the bankruptcy is In re: Palm Beach Finance Partners LP et al., case number 9:09-bk-36379, both in the U.S. Bankruptcy Court for the Southern District of Florida.