

MASSACHUSETTS Lawyers Weekly

Lawyer kicks open door to recovery for TelexFree victim class

By: Pat Murphy | December 23, 2021

Class-action attorney Robert J. Bonsignore knew going in that obtaining tangible relief for the million-plus victims of the largest pyramid scheme in history would be a tall order.

But earlier this month, a federal judge in Worcester gave the lead plaintiffs' counsel in the TelexFree multidistrict litigation a fighting chance to force four big banks and accounting giant PricewaterhouseCoopers to pitch in and cover at least some of the billions of dollars lost by investors in defunct internet phone service company TelexFree.



"I do quite a lot of these pyramid scheme cases," Bonsignore says. "It always comes down to how much was the total loss and, then, what are the alternatives for recovery. Most times, the people who are most responsible take the money, funnel it overseas, and hide it."

On Dec. 6, U.S. District Court Judge Timothy S. Hillman allowed Bonsignore to amend the plaintiffs' complaint in the MDL to revive claims that had previously been dismissed against Bank of America, TD Bank, Wells Fargo Bank and PwC.

"TelexFree fleeced over a million victims of over \$4 billion dollars in less than four years," the Medford attorney says. "This was not accomplished in a vacuum. TelexFree was a 100 percent financial fraud-driven criminal enterprise that set off red flags and alerts to its Electronic Banking System sponsors and facilitators. By its own admission, without access to the Electronic Banking System, TelexFree would have collapsed and been forced to close its doors within three months."

Hillman allowed Bonsignore's motion to amend on the basis of new evidence obtained in the course of discovery by plaintiffs' counsel in the financial fraud case.

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Massachusetts law, the provision of routine services may constitute substantial assistance when coupled with actual knowledge of an underlying tort.”

As to the accounting firm, Hillman found sufficient allegations in the plaintiffs’ proposed complaint “that concluded that PwC, aware of TelexFree’s legal issues and the purpose of its international expansion, advised TelexFree on how to move funds beyond the reach of United States regulators.”

At the same time, the judge denied PNC Bank’s request to be dismissed from the case as a defendant on the ground that it had not been properly named as a party in an earlier complaint filed by plaintiffs in the multidistrict litigation.

Bonsignore says the banks are liable for facilitating the financial transactions in the pyramid scheme while ignoring numerous red flags that something was rotten about TelexFree’s dealings.

“If you know someone is going out to commit murder, you don’t sell them a gun and a bullet,” Bonsignore says.

The source of much of the newly discovered evidence cited in the amended complaint is former TelexFree CFO Joseph Craft, Bonsignore says.

According to court records, the now-defunct Telex Free was a Massachusetts corporation headquartered in Marlborough that held itself out as an internet phone service company. The pyramid scheme operated from February 2012 to April 2014, initially targeting investors in Brazil. The company allegedly raked in \$2 billion in two years before being shut down by Brazilian authorities in 2013.

The company then turned its attention to investors in the U.S., allegedly taking in another \$2 billion before being raided and shuttered by federal authorities.

Investors across the U.S. sued dozens of defendants — including the operators of the scheme and their financial advisors, as well as payment processors and banks. In 2014, the federal lawsuits were consolidated in an MDL that landed in the U.S. District Court in Massachusetts.

At the civil action was stayed by parallel criminal proceedings in which the masterminds of the scheme, James Merrill and Carlos Wanzeler, were charged with multiple counts of wire fraud. Merrill pleaded guilty and in 2017 received a six-year sentence. Meanwhile, Wanzeler fled the country.

“The criminal [cases] were a joke, an embarrassment,” Bonsignore says. “They convicted a handful of people. A lot more should have been convicted. Over 20 people made over \$5 million. About 75 or more people made over a million dollars.”

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