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Ponzi scheme costs ATM investors \$125M

By Alex Kacik
Staff Writer

A Santa Barbara-based law firm filed a class-action lawsuit that aims to recoup losses of an alleged 1,300 victims — including some in the Tri-Counties — caught up in an estimated \$125 million Ponzi scheme.

Joel Gillis and Edward Wishner allegedly sold investors on automated teller machines that often didn't exist. Over a 15-year span, they falsely promised that investor money would purchase ATMs that would generate at least 20 percent annual returns, according to the complaint filed by Hollister & Brace in federal court on March 18.

Gillis' and Wishner's firm, Nationwide Automated Systems Inc., operated out of Woodland Hills, Canoga Park and Calabasas.

Investors paid a flat amount — from \$12,000 to \$19,800 — per ATM. In exchange, NASI would lease back the ATMs and pay investors a “rent” of 50 cents per transaction, which was well below the typical transaction fees of \$2.50 to \$3. NASI said it could guarantee a 20 percent return by shifting part of its share of the transaction revenue back to investors.

But most of the 30,000 or so ATMs the firm said it had did not exist. NASI, not the investors, allegedly owned and operated 239. NASI did not make monthly payments to investors with ATM transaction revenue. Instead, it fleeced around \$125 million from new investors to fund the pyramid scheme, according to the complaint.

The 10-year lease agreement in-

cluded a “non-interference” provision that prohibited investors from visiting their supposed ATMs. NASI also duped investors by providing bogus monthly reports that fudged supposed performance. ATM transaction revenue only accounted for less than 2 percent of NASI's actual revenue.

Of the nearly \$24 million deposited to NASI's bank accounts in April through June 2014, only about \$391,000 represented legitimate ATM transaction revenue from servicers, whereas around \$18 million represented new investor funds. However, in this same time period, NASI paid at least \$23 million in sale and leaseback agreements.

Gillis, 75, is currently serving a 10-year term in federal prison for coordinating the white-collar ruse and his cohort, 77-year-old Wishner, is doing a nine-year stint. They pleaded guilty early last year to conspiracy, two counts of mail fraud and one count of wire fraud.

The con unraveled when NASI bounced about \$3 million in checks in August 2014 that had been sent to investors, according to court filings. By the end of the month, NASI had drawn its bank account down to less than \$200,000.

The Securities and Exchange Commission filed a civil lawsuit in relation to the NASI scheme in September 2014, which resulted in a court order freezing the company's assets and the appointment of a receiver.

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“The defendants have ‘sold’ and ‘leased back’ tens of thousands of ATMs to NASI investors that they never owned, that they never operated, and that may have never existed.”

— Securities and Exchange Commission

ed, and that may have never existed,” the SEC said in its complaint.

Between August 2007 and August 2014, CNB allegedly accepted deposits of approximately \$350 million of new investor funds. They persuaded investors to roll their IRA savings into the sale and leaseback agreements by touting a duplicitous 19-year track record of profitable returns for investors. The 20 largest investors were net winners of about \$17 million but others lost their life savings, according to court filings.

Santa Barbara investor Pamela Geremia is one of the plaintiffs listed in the suit. Geremia, 72, invested \$72,000 in NASI, according to the complaint. She received \$15,584.50 as “phantom ATM rent” on her investment, netting a \$56,415.50 loss.

“Plaintiffs have collectively each lost substantial funds due to the defendants' misconduct,” the complaint filed by Hollister & Brace reads.

The complaint alleges that City National Bank knew of the scheme while it managed NASI's account,

which on average paid up to 2,000 checks to investors every month. Listed defendant Patrick Fitzwilliam of CNB participated and helped conceal the scheme, according to the complaint.

“The success of the scheme was dependent upon the ability to mislead investors regarding the use and security of the funds and to hide the ever worsening financial condition of NASI, which required the active participation by CNB,” the complaint reads.

City National Bank said in a statement, “This was fraud, plain and simple. Investors were misled, and so were we. Beyond that we do not comment on pending litigation.”

The SEC complaint alleges that one investor called the hotel where her supposed ATM was located only to find out there wasn't one on the property. She then called NASI and told them she “knew what they were doing” and wanted her money back. Her investment was returned, no questions asked.