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## Whistleblower suspected Ponzi scheme, but 'state wouldn't act'

Comments

March 27, 2010

BY DAVID ROEDER Sun-Times Columnist

Bernie Madoff had Harry Markopolos, the whistleblower whose warnings about Madoff's Ponzi scheme went unheeded for years.

When the dust settles, it's possible that USA Retirement Management Services Inc. will have Jim Mescall.

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Jim Mescall has information on U.S.A Retirement Management Services, alleged perpetrators of a ponzi investment scheme. (Rich Hein/Sun-Times)

As an alleged Ponzi operator, USA Retirement of Oakbrook Terrace was on a much smaller scale than Madoff. But it's still tragic to the people involved and, like the Madoff case, it could have been prevented had somebody listened.

Mescall is a Chicago insurance agent with the instincts of a sleuth and a habit of keeping thick files. In 2008, he was losing a client, a retired couple from Palatine who were transferring about \$500,000 in annuities into investments sold them by USA Retirement partner Francois Durmaz. They said Durmaz promised to "cover" surrender charges from the sale. Mescall smelled a rat. He

determined that neither Durmaz nor another partner in the firm, Lisle resident Robert Pribilski, held licenses to sell securities. In August 2008, Mescall explained his suspicions in an e-mail to a state regulator.

The client "said he [Durmaz] assured her the funds were all guaranteed to be safe and pay a rate of interest of 8.35 percent," Mescall wrote. "In addition, she could walk away in five years with no charges. When I asked her how the funds were invested, she responded that she did not know."

Mescall got no response from the Illinois secretary of state's office, which regulates securities dealers. Mescall gathered more evidence of sales practices involving "promissory notes," which USA Retirement legally could not deal in. He made further calls to state officials, who he said demanded more and more evidence from him while USA Retirement continued on its merry way.

"I was jumping up and down yelling about these people, but the state wouldn't act," Mescall said. "They are the cops on the beat and they did nothing."

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Finally, the Securities and Exchange Commission in Los Angeles obtained a court order March 9 freezing USA Retirement's assets. The federal agency charged that Durmaz and Pribilski used estate planning workshops in California and Illinois to find people to invest in Turkish Eurobonds with purported guaranteed returns. They raised \$20 million from about 120 investors, the SEC said, and wired the money to friends in Turkey and business interests or spent it on fine cars, a home for Durmaz and Internet pornography. The complaint said early investors were paid off with cash from later investors in the classic Ponzi pattern.

On March 1, Secretary of State Jesse White temporarily barred the company from selling securities, an order with little practical effect. The SEC said Durmaz and Pribilski had falsely denied they were selling securities. Mescall said that had the bureaucrats done a little legwork, they would have easily learned the truth. A spokeswoman for White declined to comment on an "open investigation."

A federal judge named a receiver, Steve Donell of Los Angeles, to take control of USA Retirement. Donell quickly closed the Oakbrook Terrace office and seized the files.

Last week, he submitted his first report, saying he had recovered \$112,000 that Durmaz and Pribilski had in Harris Bank accounts. But the rest is still a muddle. Regardless of whether this company's clients invested in fraudulent accounts, it will be many months before they can get any money back. A source in the case said it is complex because much of the cash went to Turkey. Donell's firm is posting updates on the case at [fedreceiver.com](http://fedreceiver.com).

For the victims, all of this could have been avoided had they checked Durmaz and Pribilski against the records of the Financial Industry Regulatory Authority, the in-house watchdog for the securities business. They also could have verified their licensing, or lack thereof, with the Illinois secretary of state or the Department of Insurance.

At least two victims I know of relied on an "A" rating USA Retirement got from the Better Business Bureau of Chicago. Bureau spokesman Tom Joyce said it, too, was victimized by the company's false representations about its business. He said investors "need to use all the resources available to empower themselves."

It's too bad the bureau isn't using all of its resources to warn people about the limitations of an "A" rating.

The SEC declined to discuss the matter beyond its public filings and wouldn't say whether the civil charges will morph into criminal cases. A lawyer for Pribilski declined to comment.

Durmaz may have his own view of the case's progression. At last check, the 39-year-old resident of Streamwood and Los Angeles, who also goes by Mahmut Durmaz, had not been served court papers, nor has an attorney surfaced on his behalf.

People involved in the case suspect he has fled the country.

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