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Local brokers, former CEO face deadline to pay penalty for misleading investors

By Richard Burnett

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Lured by stockbrokers' promises of big, can't-miss returns, Trini Thomas and his wife, Betty, sank $100,000 into the initial public offering of stock in a Texas-based biotechnology firm.

But according to regulatory documents, their cash was secretly used instead to buy a high-risk corporate note that never paid them a dime. The Lake County couple lost their money, as did scores of other investors who together may have lost more than $7 million.

Now, after a three-year legal battle, the Thomases may be close to getting at least some of their money back from the brokers in Central Florida and elsewhere who diverted it.

Several Maitland brokers and the former chief executive officer of Empire Financial Group Inc., a now-defunct Longwood brokerage, are among those facing a judgment that has reached nearly $400,000 when penalties and legal fees are included, the documents show.

Industry regulators have ordered the brokers and former CEO to pay up by Sept. 9 or face suspension from the securities business. The brokers have denied any wrongdoing and are trying extend the deadline and reach a settlement.

The judgment is the latest development in the long-running saga of Empire Financial and its corporate parent, Jesup & Lamont Inc., which declared Chapter 11 bankruptcy last month amid financial and regulatory problems. Once based in Longwood, Jesup & Lamont moved its headquarters to New York nearly two years ago, though it continued to maintain an investment-trading and back-office unit in Seminole County.

Earlier this year, a securities arbitrator cited a number of legal breaches in ruling that former Empire Financial brokers "were guilty of intentional misconduct and gross negligence" in the Thomas case, according to a report issued by the Financial Industry Regulatory Authority, the self-policing watchdog of the securities business.

"These brokers put the big sale on Mr. Thomas," said Randall C. Place, a North Carolina lawyer representing the couple. "They lied to him, guaranteeing that when this company's stock came to market the Thomases would double their money. They were never told the real story, how shaky this company was. The stock never came to market."

Documents in the case indicate more than 120 investors together invested about $7.5 million in the unsucessful IPO of the Texas company. It is not clear how much of that was lost or if any was recouped by the investors.

Included as defendants in the case were Todd Havemeister, Ronald Eiger and Wofal Oju Offem, former Empire Financial brokers who now work for the Maitland branch of JHS Capital Advisors Inc. of Tampa.

The three brokers joined JHS in late 2008 after Empire Financial closed as the result of a regulatory violation involving a separate, $720,000 arbitration award. Jesup & Lamont shuttered Empire and moved its accounts to Jesup's brokerage unit in New York. That unit closed in late June under similar circumstances connected to arbitration proceedings.

Also listed as a defendant in the Thomas case was Donald A. Wojnowski, the former CEO of both Empire Financial and Jesup & Lamont. Wojnowski resigned in June when Jesup closed most of its offices; he now works for the Indialantic office of the Anderson & Strudwick Inc. brokerage.

Other defendants include Jesup & Lamont Securities Corp. (the New York brokerage unit of Jesup & Lamont Inc.); Empire Financial Group Inc.; and New York investment banker Eduardo M. Cabrera, also a former Empire executive.

The defendants dispute the arbitrator's findings, said Todd Zuckerbrod, the Jesup & Lamont corporate counsel who represented them in the case. He insisted that the Thomases had been properly informed of the risks involved in their investment.

He called the arbitrator's ruling flawed and biased. "I have never read an award decision that was more lop-sided and one-sided," he said.

But as the deadline for the award payment draws closer, brokerage-liability insurance may wind up covering the defendants' penalty, Zuckerbrod indicated, though he would not discuss the status of any insurance claims or an appeal of the judgment.

The lawyer now representing Havemeister, Eiger and Offem said the case has been going on for too long, and the three hope to negotiate a settlement soon.

"This is a case that once involved a $100,000 award that has morphed into several hundred thousand dollars," said James Sallah, a Boca Raton lawyer. "This case has taken on a life of its own and snowballed to the point where we need to apply the brakes and resolve it."

Place, the Thomases' lawyer, said he may attempt to go after Jesup & Lamont, even though it is in Chapter 11 bankruptcy reorganization. As of June 30, the company listed assets of $41.2 million and debts totaling $24.6 million.

"There are clearly some assets still out there," he said.

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