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They didn't get out scot-free

Trustee sues investors who fled NJ Affordable

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Like hundreds of other investors, Bobby Joe Sweetser learned about NJ Affordable Homes and its 15 percent guaranteed return and decided to hand over \$20,000.

But 3 1/2 years ago, the department store salesman from Arkansas learned NJ Affordable had got ten in trouble with state securities regulators. The real estate investment company was required to offer some investors their money back, and Sweetser decided to cash out.

By late 2004, he had received principal and interest topping \$55,000. A year after that, NJ Affordable was branded a fraud and placed into liquidation bankruptcy.

Sweetser and others may have thought they got out before the fall. However, a bankruptcy trustee overseeing NJ Affordable's liquidation isn't prepared to let them go.

The trustee has sued Sweetser and other investors, seeking to have them return the payments to the company's estate on the theory the money was paid as part of a Ponzi scheme.

"It just seems unfair," said Linda Snyder, a Newark attorney for Sweetser who is asking a judge to dismiss the trustee's complaint. "It seems like something is wrong."

Since Woodbridge-based NJ Affordable was put into bankruptcy in November 2005, the trustee has filed complaints against hundreds of investors and institutional lenders. Many suits seek to void titles or mortgages investors hold on properties connected with NJ Affordable.

Some of the complaints involve investors such as Sweetser, one of about 70 people NJ Affordable was required to repay \$2.5 million through the prior settlement with the state.

"They (the investors) complied with what the state court had provided," said Wayne attorney John Scura, who represents two former investors in the same situation.

In the decade before NJ Affordable collapsed, more than 1,200 people invested a total of \$123 million, court records show. A portion of that amount was returned to some investors, but many saw their entire stake disappear.

Harry Gutfleish, an attorney for trustee Charles Forman, said payments made from a Ponzi scheme — where older investors are paid with cash from newer investors — can be recovered. He also noted the court settlement NJ Affordable reached with state regulators didn't give company officials the right to steal money from other investors to satisfy it.

The trustee, he said, wants to create a pool of assets that can be split equally among creditors.

"We're talking about people who received more back than they invested," Gutfleish said about the investors who participated in the rescission offer. "So the question is, should we treat them differently than anyone else who got a profit?"

It's an approach investor attorney Peggy Jurow doesn't quite understand.

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" "You're essentially suing the creditors," Jurow said, "to get money to pay the creditors."

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