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To SEC's Chagrin, Ponzi Feeder Ordered to Pay \$41M Penalty

By **Carolina Bolado**

Law360, Miami (July 22, 2015, 7:24 PM ET) -- A Florida federal judge on Wednesday ordered convicted investment fund manager George Levin to pay more than \$41 million in disgorgement and civil penalties for funneling investor money into Scott Rothstein's \$1.2 billion Ponzi scheme, a fraction of the judgment the U.S. Securities and Exchange Commission had asked for.

U.S. District Judge Ursula Ungaro rejected the SEC's **request for a \$180 million judgment** against Levin, instead finding that he should pay \$40.9 million in disgorgement and \$663,000 in civil penalties.

Judge Ungaro said the SEC's request was "contrary to the purpose underlying disgorgement," which is a measure of the defendant's ill-gotten gains. Requiring Levin to disgorge more than his ill-gotten profit would be punitive and not remedial, according to the judge.

"But the SEC is effectively asking the court to do this in moving the court to order Levin to disgorge Banyon 1030-32's proceeds twice," Judge Ungaro said. "This is not a reasonable approximation of his ill-gotten gains from the Banyon 1030-32 offering, even though he violated multiple sections of the Securities Act and Exchange Act."

A jury **found Levin liable** in April for securities violations related to his Banyon investment funds, which were the largest feeder funds in Rothstein's scheme.

The SEC claimed that Levin and fellow investment manager Frank Preve purchased supposed legal settlement awards from Rothstein and resold them as securities in the form of promissory notes from Banyon 1030-32 LLC or later as interests in their private investment fund, Banyon Income Fund LLP.

They allegedly raised \$157 million from 173 investors by selling the unregistered securities, which their investment literature purported to have verified. The securities were shares in sham legal settlements peddled by Rothstein through his law firm, Rothstein Rosenfeldt Adler PA, between 2005 and October 2009.

In August, Preve pled guilty to a criminal charge of conspiracy to commit wire fraud. He further entered into a consent judgment against him in the SEC's civil suit.

The SEC requested \$57 million in disgorgement, \$11.3 million in interest and a \$5.7 million civil penalty, as well as disgorgement of \$49 million for ill-gotten gains, \$9.6 million in related interest and a \$49 million related civil penalty, according to court records.

In her order Wednesday, Judge Ungaro told the SEC to resubmit its prejudgment interest request based on the \$40.9 million disgorgement.

The SEC is represented by Amie Riggle Berlin, David Lawson, Robert Levenson and James Carlson of the SEC's Miami regional office.

Levin is represented by Daniel L. Rashbaum and Michael A. Pineiro of Marcus Neiman & Rashbaum LLP and Kenneth Robinson of Rice Pugatch Robinson & Schiller PA.

The case is SEC v. Levin et al., case number 1:12-cv-21917, in the U.S. District Court for the Southern District of Florida.

--Additional reporting by Nathan Hale. Editing by Mark Lebetkin.

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