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Longtime friends win settlement for fleeced investors

James D. Sallah
Sallah & Cox
Scott L. Silver
Blum & Silver

MELANIE BELL

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James D. Sallah and Scott Silver recovered millions of dollars for victims of a rogue Boca Raton securities broker in a case that exposed flimsy safeguards for the average investor.

The two attorneys won restitution for investors who lost personal fortunes entrusted to Gary Gross, a former broker barred from the securities industry under terms of a 2008 settlement with the Securities and Exchange Commission.

In addition to winning the settlement and an arbitration award for investors, Silver and Sallah turned over evidence in their case against Gross to the SEC, which led to the agency's decision to kick Gross out of the securities industry.

Sallah and Silver are longtime friends who previously worked together at the SEC. Sallah, a partner in the Boca Raton law firm of Sallah & Cox, has extensive experience in cases that center on securities regulation and enforcement. Silver is a partner at Blum & Silver, with offices in Coral Springs and New York, and much of his practice centers on securities arbitration and broker-dealer litigation.

They persuaded an arbitration panel in August to award $7.5 million, including $4 million in punitive damages, to Gross' victims. Sallah and Silver are preparing to file a motion in Palm Beach Circuit Court to confirm the award as a court-ordered judgment against Gross.

The three-member arbitration panel determined that, among other regulatory violations, Gross put elderly clients in unsuitably risky investments, misled clients with doctored accounts of their investment holdings and needlessly traded securities in client portfolios to collect excessive fees and commissions, an illegal practice called "churning."

"It was some of the worst churning I've ever seen," Sallah said. Among the victims was a female client of Gross who entrusted almost $700,000 to him "and lost over 90 percent of it in a couple of years through just rampant churning. It was a horrific."

"People trusted him," Silver said. Gross developed his client base by "portraying himself as a deeply religious person, inviting people to join him at his synagogue. … But this is a guy who never should have been allowed to stay in the industry as long as he did."

Gross worked as a securities broker at the old PaineWebber firm, which merged into Switzerland-based financial services provider UBS. He was fired from that job and later joined the investment firm Axiom Capital. UBS and Axiom said they were unaware Gross was abusing clients.

Ultimately, both UBS and Axiom agreed to pay confidential settlements to clients of Sallah and Silver. Silver said the combined settlement by the two companies measured in the millions of dollars.

UBS achieved technical compliance with securities regulations by noting on Gross' securities license that he quit his job as a result of a conflict with management. But when clients asked UBS why Gross was gone, "they were left to believe that Gary had left voluntarily to join a prestigious boutique investment banking firm," Silver said. Arguing UBS was culpable for misrepresentation "was a novel approach that we took, which ultimately resulted in a settlement."

Enforcement of state law was lacking, though. The Florida Securities Investor Protection Act is designed to protect the investing public from brokers like Gross, but Silver said the state's enforcement efforts against him were feeble.

"The act is fine," he said. "It's the people who are responsible for enforcing the act that let down the investors here. Many investors reported Gary to the state," but the state conducted an investigation that was "poorly constructed and failed to take any action against Mr. Gross."

Efforts to collect the $7.5 million arbitration award against Gross are likely to intensify in the weeks and months ahead.

"Gary Gross still lives in a multimillion-dollar home in the Polo Club in Boca Raton despite claiming he does not have the financial resources to satisfy these obligations," Silver said.