

RACKETEERING Bahamas bankruptcy ruling yields fraction of \$330M award

Miami attorney secures \$14M for athletes, other Ponzi victims

by **John Pacenti**
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For nearly a decade, Miami attorney Lawrence Kellogg has sailed the seas of international litigation trying to enforce a judgment on behalf of victims — some of them professional football players — of Cash 4 Titles, an Atlanta-based Ponzi scheme shut down by federal regulators in 1999.

The victims were able to secure a \$14 million judgment in the Bahamas after fighting with a bankruptcy liquidator to get some part of a \$330 million racketeering class action judgment obtained in the United States in 2006 against Leadenhall Bank & Trust Co. Ltd. The company had filed for bankruptcy in the island nation.

The \$14 million award, which amounts to 90 percent of Leadenhall's liquidation estate, was recognized by the Bahamas Supreme Court in June.

"We were able to collect on a RICO judgment from the United States in a foreign country. It may be the first time that it has ever happened, and nothing but tenacity and hard work got this done," said Kellogg, a partner with Levine Kellogg Lehman Schneider + Grossman in Miami. "It was really hard."

Kellogg won the civil racketeering lawsuit from a Miami federal judge in 2008 against the bank, and treble damages produced the \$330 million award.

Leadenhall was accused two years earlier in the federal class action of backing up the claims of the criminals who ran Cash 4 Titles, thus encouraging investors



J. ALBERT DIAZ

Lawrence Kellogg, who got the Bahamas Supreme Court to approve the award, said it may be the first RICO judgment from the United States in a foreign country.

to put their money into the venture.

Kellogg succeeded in getting the civil racketeering judgment for 2,800 cheated investors against Leadenhall, but collecting proved troublesome after it filed for bankruptcy in the Bahamas.

The \$330 million judgment was entered by then-U.S. District Judge Adalberto Jordan, who now sits on the U.S. Court of

Appeals for the Eleventh Circuit, after he struck Leadenhall's defenses.

CASH 4 TITLES

Even if it were a legitimate business, Cash 4 Titles, was — as Kellogg put it — “a horrible business.” Those down on their luck would hand over the titles to their cars for a loan and receive something similar to a payday loan. If they didn't pay it back in time, they lost their cars.

But Cash 4 Titles turned out to be a fraud that took nine professional football players and others for a ride. They were promised a 20 percent return on their investment in the dodgy lender. The venture proved to be the downfall of once-lauded agent Tank Black, who was paid finder's fees for attracting investors. Several Cash 4 Titles principals, including Black, served prison sentences.

Prosecutors in 2001 said players who were scammed by Black included Jacksonville Jaguars running back Fred Taylor, New York Giants wide receiver Ike Hilliard and Philadelphia Eagles running back Duce Staley. The players lost about \$9 million.

The best hope for any recovery remained the banks, who Kellogg said had “vouched” for Cash 4 Titles.

When the Bahamian liquidator balked, Kellogg appealed, citing Canadian appellate decisions

that accepted treble judgments in the U.S.

The Bahamas Supreme Court agreed with Kellogg's assessment of the Canadian appellate cases and carved out \$14 million from the bank's estate.

The court judgment, though far from \$330 million, increased the actual recovery for victims. The Bank of Bermuda, which also was accused of assisting in the ruse, settled litigation in a separate lawsuit for \$67.5 million in 2002.

DISTRIBUTION

A federal magistrate lauded Kellogg's work while recommending an award of \$4.9 million in attorney fees.

“With access to such resources and every incentive to exhaust them, the Leadenhall liquidator was able to battle class counsel for over eight years,” U.S. Magistrate Judge Edwin Torres wrote in a Sept. 26 report and recommendation. “Throughout this period, only class counsel faced the real risk that, if unable to make a recovery, they would have to bear the entire cost of the litigation, including substantial out-of-pocket expenses.”

U.S. District Judge James Cohn in Fort Lauderdale on Oct. 25 approved another report and recommendation by Torres to distribute the money.

Kellogg credits his co-counsel:

Gordon Dobie of Winston & Strawn; Barton Sacher of Sacher, Zelman, Hartman, Paul, Beiley & Sacher in Miami; and Martin Kenney and Peter Maynard in the Bahamas.

After years of fighting the liquidator, Kellogg feels like he climbed Mount Everest in getting the Bahamas to recognize the RICO judgment.

“It feels like the biggest accomplishment of my career. No lie,” Kellogg said.

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