

Maine Publisher Sues Firm, Claims Investment Fraud

By Trevor Maxwell
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Portland – A publisher from Lincoln County has sued a former Merrill Lynch executive and the investment firm he founded, in a case that's part of the fallout from the massive Ponzi scheme perpetrated by Bernard Madoff.

Daniel Goldenson and his wife, Suzanne, of Bremen filed the lawsuit Wednesday in U.S. District Court against John "Launny" Steffens, founder of Spring Mountain Capital. The lawsuit also names the firm's chief operation officer, Gregory Ho.

The Goldensons seek a jury trial and damages on 11 counts, including allegations of breach of fiduciary duty, fraudulent misrepresentation and securities fraud.

The Goldensons, well known for their conservation work in midcoast Maine, had all of their investments with Merrill Lynch before 2001. According to the complaint, they were friends of Steffens, who was vice chairman for Merrill Lynch until leaving the company in June 2001.

The Goldensons claim that during a dinner in the fall of that year, Steffens advised them to move their investments to his new business venture, Spring Mountain Capital, and he later advised them to invest in a hedge fund known as the Ascot Fund. Daniel Goldenson says he was assured repeatedly by Steffens, Ho and investment documents that his contributions to the Ascot Fund were performing well and were being managed through an elaborate conservative strategy designed to bring annual returns of about 10 percent.

Instead, Goldenson now claims, his money was being passed through to Madoff without the Goldensons' knowledge and without oversight by anyone at Spring Mountain Capital. Only after Madoff's crimes were exposed in late 2008 did Goldenson learn where his retirement money had gone. He says he and his wife lost about \$2.5 million.

Thimi Mina and Jay McCloskey, former federal prosecutors who are partners in McCloskey, Mina & Cunniff LLC in Portland, represent the Goldensons. They wrote in the lawsuit: "The Ascot Fund was nothing more than a 'feeder fund' that simply funneled investors' money to Madoff Investment Securities, which was controlled by one Bernard Madoff, the infamous and now convicted perpetrator of the largest investment fraud and Ponzi scheme in history.

“Had the true destination of their investments in the Ascot Fund been disclosed to the Goldensons,” the lawsuit says, “they could and would have had access to public information that was critical or skeptical of Madoff’s purported trading strategy.”

Mina and McCloskey issued a statement Wednesday afternoon in conjunction with the filing of the 43-page lawsuit.

“The lawsuit was brought to protect and vindicate some of the most basic fiduciary obligations owed to the Goldensons by their investment advisors, including the duties of honesty, candor and utmost good faith and loyalty,” the statement said. “The lawsuit will address some of the same core issues that contributed to the collapse of financial markets in 2008, including the duties and obligations of investment professionals and the transparency of the securities marketplace.”

Steffens and Ho are aware of the lawsuit, and they issued a response through their counsel Wednesday afternoon.

“Spring Mountain Capital believes that the claims asserted against it and its principals lack merit, and intends to vigorously defend itself and its principals in this action,” said Jim Kreissman, a partner with Simpson Thacher & Bartlett, a global law firm with headquarters in New York City. Kreissman would not answer questions about the case.

In their statement, the Goldensons’ lawyers emphasized the role allegedly played by J. Ezra Merkin, although he is not named in the lawsuit.

Merkin, a money manager and former chairman of General Motors’ finance arm GMAC, was a limited partner and a financial consultant to Spring Mountain Capital. He formed and headed the Ascot Fund. In April, the New York Attorney General’s Office charged Merkin with civil fraud, alleging that he moved a total of \$2.4 billion to Madoff from the Ascot Fund and other hedge funds under his control, without informing investors.

Indirect investors like the Goldensons – people who put money into “feeder funds” to Madoff’s firm – are still fighting for compensation through the federal bankruptcy case, but their prospects don’t look good.

The Goldensons are known in the midcoast for their conservation work and philanthropy. They helped preserve the 850-acre Bremen Island when they donated 165 acres on the island to the Medomak Valley Land Trust. They also donated 50 acres of forest near their farm in Bremen to Maine Audubon.

As a publisher, Goldenson has created and sold several businesses, including Resource Publications Inc. and eMed Guides Inc. Earlier this year, he sold Starting Out Inc., a project he launched in Damariscotta in 2008, to the adult-education arm of McGraw-Hill for an undisclosed price.

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