

Fidelity to pay \$2.25 million in Pheonix deal

The sum will settle part of the claims against Ponzi schemer Thomas Abrams.

By Mary McLachlin
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WEST PALM BEACH — Fidelity Federal Bank and Trust has agreed to pay \$2.25 million to settle part of the legal claims by victims of investment swindler Thomas Abrams, whose Pheonix Financial Groups empire was exposed as a Ponzi scheme in 2001.

The victims will get only about 10 cents on the dollar for their losses, after attorneys take 20 percent of the settlement and several hundred thousand dollars in other fees and costs are deducted.

A majority of the victims were retirees who entrusted their life savings to Abrams, a high-living sports enthusiast and philanthropy impostor who's now serving 25 years for fraud and money laundering.

The Fidelity Federal settlement applies to \$17 million-\$20 million in claims in U.S. Bankruptcy Court. Michael Budwick, a Miami attorney for the bankruptcy case trustee, said trial dates looming late this month helped achieve the settlement.

"Settling prior to trial saves attorneys' fees and expenses for both sides," Budwick said. "If we went to trial, regardless of who won, we would still be looking at a year or two years of appeals."

Christopher Cook, attorney for Fidelity Federal, said the bank's insurance paid for part of the settlement and that it had "no material impact on the bank's earnings."

Investors may recover more through a civil suit in Palm Beach County Circuit Court that targets not only Fidelity Federal Bank and Trust, but also Fidelity Investments and Thomson Financial Inc., which published false information about Pheonix that was supplied by Abrams.

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The suit seeks more than \$18 million in reimbursement and damages. It was filed last February by a group of investors organized by former Jupiter Mayor Mary Hinton and her husband, Jim, who were Pheonix clients. They allege the defendants ignored red flags in Abrams' operations and failed to protect them from fraud.

Michael Burman, an attorney for the group, said 1st United Bank also has been notified that it will be sued if no settlement is reached on a claim of more than \$5 million. The bank took over Advantage Bank of North Palm Beach, whose vice president was convicted of helping Abrams commit fraud.

1st United officials didn't respond to requests for comment.

Eduardo Godoy was sentenced in August to 57 months in prison and ordered to pay \$2.4 million in restitution. Godoy helped Abrams persuade a client that her \$1 million was safely invested in a nonexistent CD, in exchange for Abrams providing false asset statements so Godoy could get \$1 million in loans from two banks.

Abrams has lost one appeal of his sentence but is trying again to get it overturned, based on recent U.S. Supreme Court rulings dealing with sentencing guidelines. A June decision in the case of *Blakely vs. Washington* said any fact that raises a sentence beyond the maximum must be proved to a jury beyond a reasonable doubt — not merely considered by a judge at a post-conviction sentencing hearing — to comply with the Sixth Amendment right to a trial by jury.

In an appeal he wrote himself, Abrams said the ruling upholds his claim that he should have been sentenced to no more than six months in prison and that his case "represents one of the most obnoxious examples of constitutional deprivation ever brought before the judiciary."

Abrams has asked to be declared indigent, saying he has no income other than the \$5.25 a month he earns for work at the Edgefield, S.C., federal prison and the \$50 a month his mother sends him.

Staff researcher Lelia Boyd Arnheim contributed to this story.