

Fairfield Investor Suit Says Actions Rose to Fraud

By David Glovin

April 27 (*Bloomberg*) -- Fairfield Greenwich Group, the hedge fund that steered \$7 billion to Bernard Madoff, faces new claims of fraud by investors who previously alleged negligence against co-founders Walter Noel, Jeffrey Tucker and Andres Piedrahita.

The class-action suit, first filed in January in Manhattan federal court, was amended April 24 to include claims that the three co-founders and the firm acted so recklessly in placing client money with Bernard L. Madoff Investment Securities LLC that their actions constituted fraud. The amended complaint relies on documents filed by Massachusetts Secretary of the Commonwealth William Galvin, who filed an administrative complaint against Fairfield Greenwich and its Sentry Funds April 1, and other investigation by the plaintiffs.

The investors' complaint, which seeks damages for their losses, claims that Fairfield Greenwich and its executives had no basis to tell investors that their historical profits were real, that Madoff's "split-strike conversion strategy" was legitimate, or that the firm conducted adequate due diligence.

"The evidence that has come to light shows that certain of the Fairfield defendants had acted so recklessly in promoting the Fairfield Sentry Funds that they're liable for fraud," said Stuart Singer, of Boies, Schiller & Flexner LLP, one of the lead lawyers in the case. Had Fairfield Greenwich investigated Madoff, the "fraud would have been exposed many years ago," he said.

'Robust Monitoring'

Madoff, 70, pleaded guilty March 12 to fraud by using money from new investors to pay off old ones in the largest Ponzi scheme in U.S. history. Before his Dec. 11 arrest, he had told his thousands of clients that they had about \$65 billion in accounts with him, prosecutors said.

Feeder funds like Fairfield Greenwich gathered investor money in their own names and sent it to Madoff.

Fairfield Greenwich said the claim that it failed to exercise due diligence on behalf of investors is "false and misleading," according to the company's April 1 statement in response to the Massachusetts lawsuit.

Fairfield "conducted vigorous and robust monitoring on an ongoing basis of the Madoff investments," the statement said. "This monitoring was consistent with the representations made to investors in the Sentry funds."

'Guidelines'

“These are absolutely meritless allegations against Mr. Tucker and Fairfield Greenwich,” his lawyer, Marc Kasowitz, said in an interview today. “Mr. Tucker and Fairfield Greenwich were as much the victims of Madoff’s fraud as the literally thousands of other victims.”

The suit names Madoff, Fairfield Greenwich, and directors of Fairfield funds. Also sued were Citco Bank Nederland NV, a custodian; Citco Fund Services (Europe), a transfer agent; and fund administrator GlobeOp Financial Services SA. Noel’s lawyer, Glenn Kurtz, and Citco spokesman Jonathan Gasthalter declined to comment. A spokeswoman for GlobeOp who wouldn’t provide her name also refused to comment.

Calls to Fairfield Greenwich’s lawyer, Peter Kazanoff, and Piedrahita’s lawyer, Andrew Levander, weren’t immediately returned.

Among the approximately 30 named plaintiffs in the class action case are Pasha and Julia Anwar, an Illinois couple who claim Fairfield advisers ignored red flags about Madoff, and Pacific West Health Medical Center Inc. The suit seeks to represent more than 100 investors.

Madoff Control

The 112-page complaint, which also contains breach-of-duty and gross negligence claims, says the investors lost their money as a “direct” result of the defendants’ failure to fulfill their obligations. It seeks the recovery of hundreds of millions of dollars in fees paid to the defendants.

“When members of the plaintiff class raised questions about Madoff, the Fairfield defendants repeatedly -- and falsely -- assured them that they had nothing to worry about,” the complaint said. In reality, “Madoff exercised total dominance and control over the monies invested as soon as he received them from the Fairfield defendants, without any oversight, advice or contest from them.”

Fairfield Greenwich has also been sued by the town of Fairfield, Connecticut’s pension fund and its 1,500 members.

Separate suits are pending against other Madoff feeder funds, including Gabriel Capital LP and Cohmad Securities Group, which was part-owned by Madoff.

The consolidated case is Anwar v. Fairfield Greenwich, 09- cv-00118, U.S. District Court for the Southern District of New York (Manhattan).

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