

Madoff trustee reaches \$280 million accord with Merkin funds

Almost a decade after Bernard Madoff's Ponzi scheme collapsed, the trustee unwinding his fraud struck another settlement with one of the con man's earliest investors — a \$280 million deal with the hedge-fund operator and philanthropist J. Ezra Merkin.

The accord, announced Wednesday, allows 65-year-old Merkin to avoid what would have been the first major trial in a lawsuit by the trustee since the unraveling of Madoff's fraud in 2008 wiped out \$17.5 billion in principal for thousands of investors.

Merkin, who met Madoff in the 1980s and socialized with the financier, ran so-called feeder funds that directed investor cash into Madoff's bogus investment firm. Some of his clients, including New York University, later said they had no idea their money ended up with Madoff. Yeshiva University, a modern Orthodox Jewish institution, invested with Madoff through Merkin and lost about \$100 million. Madoff and Merkin both sat on the school's board.

The trustee, New York bankruptcy lawyer Irving Picard, has long claimed that Merkin turned a "blind eye" to the fraud to profit from the regular returns Madoff provided. Merkin has said he was simply another victim of a sophisticated scam.

Picard's lawsuits against Madoff's biggest investors and other parties tied to the scam have recovered more than \$12.9 billion, or about 74 percent of the lost principal.

Madoff Victims Near Full Recovery of Principal With Payout

The settlement with Merkin resolves claims against him and two funds, Ascot Partners LP and Ascot Fund Ltd., as well as his management company, Gabriel Capital Corp. A hearing to approve the deal is set for July 10 in federal bankruptcy court in Manhattan.

Under the agreement terms, the Merkin entities, which lost hundreds of millions of dollars in Madoff's firm, will get a belated claim in the bankruptcy case and receive a catch-up payment from Picard. But the deal requires Merkin to use those funds to finance his settlement and to distribute the remaining money to Ascot investors who are ineligible to get money from the trustee because they weren't direct Madoff customers.

"Mr. Merkin is pleased that the receiver has settled the trustee's lawsuit on terms that will result in a significant recovery for Ascot's investors," Merkin's lawyer, Andrew Levander, said in a statement.

Merkin, a well-known philanthropist in New York's Jewish community, lost \$110 million of his own money in the Ponzi scheme. Neither Merkin nor his family may receive any funds from Picard under the repayment deal.

The trustee and his team "have crafted an agreement that benefits Madoff's real victims and expedites compensation to indirect investors," Stephen Harbeck, chief executive officer of the industry-financed Securities Investor Protection Corp., which hired Picard, said in a statement.

Picard produced evidence showing Merkin had been warned about Madoff as early as 1992 by a money manager for two of his feeder funds. He told Merkin that Madoff's returns were too consistent and that Madoff's firm cleared its own trades, according to depositions in the case.

Madoff, 80, pleaded guilty to fraud in 2009 and is serving a 150-year sentence.

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