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Rise in white collar crime keeps legal profession busy

By BETH POTTER
CONTRIBUTING WRITER

The gallery of imprisoned financial fraudsters in the region runs from financial planner Rhonda Breard, of Kirkland, to investment fund founder Frederick Darren Berg, of Mercer Island.

Every day, more fraud cases across the country are added to the rogues' gallery, said Ron Friedman, an attorney with Lane Powell PC's white collar criminal defense, regulatory compliance and special investigations group who is a former federal prosecutor in Seattle.

And that is why law practices focusing on white collar crime are active around the country.

The U.S. Securities and Exchange Commission filed a record 735 enforcement actions in the fiscal year that ended Sept. 30. Of those, 146 related to investment advisers and investment companies, a 30 percent increase over the previous year. Broker-dealers were the focus of another 112 of the actions, a 60 percent spike.

The SEC's work led to \$2.8 billion in related penalties.

One cannot help but be "awestruck" by the number of cases both nationally and locally, said Friedman, whose Seattle-based firm recently hired a new attorney to deal with the increase in white collar cases.

The epidemic of white collar crime ranges from insider trading and embezzlement to a variety of Ponzi schemes — virtually all of them representing millions in lost investor dollars.

FBI offices have focused on prosecuting mortgage fraud cases, said Ayn Dietrich, a Seattle spokeswoman. In the 10 months leading up to July 31, the FBI logged 80,549 reports of mortgage fraud-related suspicious activity. That compares to 70,533 such reports in the entire 2010 fiscal year.

Examples of Seattle-area people victimized by fraud abound.

Financial planner Breard, who is serving an 80-month sentence, stole an estimated \$11.4 million from 43 investors, according to sentencing documents filed in 2010. She used the money to live lavishly, buying a \$2.6 million home on Lake Washington and two other mansions, along with 27 cars, trucks boats and recreational vehicles.

She mailed phony statements to customers, according to the documents, but was caught in February 2010 when an audit by investment company ING turned up a secret set of files.

Breard showed remorse toward her victims during sentencing, saying she was driven by greed and a wish to appear rich.

"The rich do it as much as the poor," Friedman said of the white collar cases he has seen in recent years. "When our society is focused on wealth, power and prestige, we shouldn't be surprised to see people commit fraud."

Friedman also points out the recent cases of Robert Miracle, of Bellevue, who ran companies that allegedly invested in oil development in Indonesia, bilking investors of an estimated \$65 million, and Berg, founder of the Meridian Group investment fund.

Berg bought a Mercer Island home, two yachts and two jets and created a motor-coach company. He was charged with defrauding investors of about \$100 million in a Ponzi scheme and pleaded guilty to wire fraud, bankruptcy fraud and money laundering, according to U.S. District Court documents.

In Ponzi schemes, new investor money is used to pay off earlier investors.

Of course, the most well-known Ponzi scheme nationally is the one committed by Bernard Madoff, the New York financier who pleaded guilty in 2009 and was

sentenced to 150 years in prison.

The ease with which people can commit financial crimes these days seems to have driven up the number of cases, said Mark Bartlett, former first assistant U.S. Attorney in Seattle and a partner in Davis Wright Tremaine LLP's local white-collar and civil fraud practice.

The Department of Justice has focused more money and attention on mortgage fraud and similar cases, Bartlett

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pointed out. But at the same time, some lower level fraud cases are falling by the wayside because of local cutbacks, he added.

"I think there is no question that after the meltdown on Wall Street and the severe heightened sense of the poor economy, there was more attention to this," Bartlett said.

It's become almost ridiculously easy for one person to create a fictitious company, making more opportunities for fraud, Bartlett said. For example, anyone can rent a mail drop and create an internet address and email for a phony company.

There appears to be an informal correlation between economic instability and financial crime as well, Friedman believes. Investors also can get sucked in by fraudulent claims more easily in such circumstances, he said.

Friedman also points to a rise in the number of whistle-blower statutes, which have created financial incentives to report suspected financial fraud.

"The lights are turned on, and they are more illuminating, now," he said.

"The government has better spotlights," Friedman said.