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## Town Recovers Money Linked To Madoff Scams

### Fairfield to get \$2.8 million from Darien investment advisors

By CHRISTIAN NOLAN

**R**etirement Program for Employees of the Town of Fairfield, et al. v. Bernard L. Madoff, et al.: A Connecticut judge has approved a \$2.8 million settlement between the Town of Fairfield and an investment firm that the town sued in 2009 over pension fund losses tied to financier Bernard Madoff's fraud scheme.

The town has now recovered \$15.4 million worth of its losses from the scheme, or approximately 80 percent. An attorney representing the town, David Golub, of Silver, Golub & Teitell in Stamford, said the 80 percent recovery rate is much better than any other Madoff victims have done so far. "That's what's so nice about this [settlement]," said Golub.

Golub said the town first settled with various other investment firms it used that had invested with Madoff, including Tremont Partners Inc., NEPC of Cambridge, Mass., Nolan Tucker and UBS Financial Services.

The most recent settlement was with MAXAM Capital Management, a Darien investment adviser which in 2007 had sold the town's two retirement plans that had invested with Madoff.

MAXAM Capital Management's lawyers in the case, led by Jonathan D. Cogan, of Kobre & Kim in New York City, confirmed the settlement. He said his client will soon pay \$250,000 to the

Fairfield retirement funds and will later pay an additional \$2.6 million.

Cogan said his clients settled "at a mere fraction of the amount claimed by the town in the lawsuit, in light of the amount of money it would have cost to try the case." Cogan said the town initially sought over \$40 million.

Cogan, who handled the case with Carrie A. Tendler, of the same firm, said his clients had been "looking forward to the trial and the opportunity to clear their names."

The settlement was approved in Stamford Superior Court by Judge Barbara Brazzel-Massaro.

The town brought claims against MAXAM and the other investment advisers and pension consultants, arguing that they either knew that Madoff's claimed investment strategy was fraudulent or that they failed to do a proper investigation of Madoff's operations.

Two of the town's retirement plans, for police officers, firefighters and other municipal employees lost millions in the scheme. That affected the pension benefits of 1,500 Fairfield town employees.

In December 2008, the town learned of Madoff's Ponzi scheme — he wasn't actually investing money in securities, but was simply paying off early investors with cash received from later investors — and that the retirement plans' investment in the MAXAM fund was actually worthless.

"When we started, people were saying that Madoff had fooled everyone and that there was no way the town would be able to win any of its claims," said Golub. "But the evidence showed that many people on Wall Street refused to do business with Madoff because they questioned [the high returns he paid investors]. And with that evidence, we were able to recover the town's lost funds."

Golub said when respected financial professionals began questioning the scheme, investment advisers at MAXAM and elsewhere should have taken a closer look at Madoff. Golub noted that as far back as 2001, *Barron's*, which he



**Stamford attorney David Golub said the investment firms that handled Fairfield's pension money should have heeded signs that the consistent high returns from Bernie Madoff's funds were too good to be true.**

described as a "well-respected" financial news source, did an article with sources questioning Madoff's success. He said that article was "significant" to his case as it should have raised red flags among investment firms.

"To do what [Madoff] said he was going to do, he'd have to buy more [stock] options in a day than the market sold of that option," said Golub. "So many market professionals said it wouldn't work... it couldn't be happening. So a lot of people wouldn't do business with him. A number of very highly respected people were turning him down."

Madoff, 74, a former NASDAQ chairman, is serving a 150-year sentence in federal prison after admitting that he ran his scheme for at least two decades, cheating thousands of individuals, charities, celebrities and institutional investors. Losses are estimated at around \$20 billion, making it the biggest investment fraud in U.S. history.

Six others have pleaded guilty in the case, including Madoff's brother, Peter.

Assisting Golub in the case was Richard Robinson, of Pullman & Comley. ■

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