PRACTICE - REGULATORY/COMPLIANCE

Ex-NAPFA Chairman Sent Straight to Prison in Fraud Judgment

BY: ANN MARSH

FINANCIAL PLANNING

FRIDAY, MARCH 14, 2014

When a judge ordered former NAPFA Chairman Mark Spangler taken directly into custody Thursday, the once-prominent investment advisor looked stunned, says one of the U.S. prosecutors on the case.

“I think that rattled him perhaps even more than the sentence,” says federal prosecutor Mike Lang, who was in the courtroom. “It was like, ‘OK, I’ll see you guys in 16 years.’ No more hugs to the family. No more goodbyes.”

Spangler -- a former Seattle investment advisor whose clients largely consisted of wealthy employees of Microsoft and biotech companies and who was also a co-founder of Tamarac, a rebalancing tool since acquired by Envestnet -- was sentenced to 16 years in federal prison. He was convicted of 32 criminal counts, including wire fraud, money laundering and investment adviser fraud, for losing almost $50 million of his clients' money; the court also ordered him to pay $19.8 million in restitution.

The charges stemmed from a period beginning in 2003, says Lang, when Spangler began diverting clients’ money -- without their knowledge -- to Tamarac and other startup companies that he controlled and in which he had a significant financial stake. He was convicted in November following a three-week trial.

USING NAPFA CONNECTION

During the late 1990s, when Spangler served as NAPFA chairman, and into the early 2000s, when he remained a member of the organization, Spangler used his NAPFA affiliation to build up his business, Lang says. Spangler reported $100 million in assets under management in his last SEC filing, the prosecutor notes.

The NAPFA affiliation “gave his clients a level of trust in him that allowed them to let down their guard,” Lang says. “They felt, ‘Hey this guy is a national expert in financial matters ... so we are not going to question where our investments are. … For a guy like that to have a leadership position in that organization and to turn around and betray his clients compounded the egregious nature of his crimes.”

NAPFA Chairwoman Linda Leitz responded to Spangler's conviction with a statement: "While this illegal activity happened several years after Mark Spangler was chairman, the situation is very unfortunate for all involved."

NAPFA CEO Geoff Brown did not immediately return a request for comment on the case's impact to NAPFA's reputation. But Spangler isn't the only former NAPFA executive to have run into legal trouble.

James Putman, who served as NAPFA president in 1996 and 1997, was charged by the SEC in 2009 with accepting $1.24 million in kickbacks related to life insurance investments made by clients of his Appleton, Wis.-based firm Wealth Management.

In 2012, a Wisconsin federal court awarded a summary judgment to the SEC and ordered Putman to pay the commission $1.6 million in profits and interest from the scheme, as well as a penalty.

TAMARAC DEAL

As of late 2010, Spangler's victims believed they had $73 million invested in two funds out of which Spangler was diverting money, Lang says; among those funds' investments was Tamarac, which Envestnet bought in 2012 for $54 million. But much of that money went to attorneys and other Tamarac investors, Lang says; a receivership created by the state of Washington to try to recoup client assets has only been able to repay $26 million to the victims.

Calls to Spangler's attorneys at the U.S. public defender's office in Tacoma, Wash., were not immediately returned, but the 59-year-old is expected to appeal. If he serves out a likely 14 years of the full sentence, he will be in his 70s when he is released, Lang says.

Spangler was considered a flight risk, in part because of the severity of the case, Lang says. Spangler and his wife had purchased tickets to Ecuador and had been planning to leave in September 2011, just two days after federal law enforcement authorities executed a search warrant to search their home.

The judge in the case recommended that Spangler be imprisoned at a minimum-security prison facility in Sheridan, Ore.

Charles Paikert contributed reporting to this story.