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Search for Ponzi-scheme assets casts wide net

Richmond's Roy Terry wins case on Channel Island

By ALAN COOPER

The search for money "invested" in a Ponzi scheme based at one time in Albemarle County has taken Richmond lawyer Roy M. Terry Jr. to some unlikely places, including the English Channel island of Guernsey and the Washington law offices of Covington & Burling.

After almost four years of looking, Terry still isn't sure just how much money was invested in a Bahamian company called Vavasour or how many investors there were.

The Securities and Exchange Commission appointed Terry and his firm, DuretteBradshaw PLC, as receivers for Vavasour and Terry L. Dowdell, the man who set up the company and started the scam.

Beginning in the spring of 1998, Dowdell persuaded investors that the "prime bank securities" he was selling would double their money in a year or less. To get the scam going and create references, the first investors received such returns—at least as listed on the statements they received with the strong encouragement to reinvest their gains and pour in even more money.

But there were no such securities, and Dowdell was using the money that the most recent investors gave him to pay the earlier ones who insisted on cash rather than paper profits.

The SEC learned of the scheme in March 2001 after another scam artist mentioned Dowdell in an apparent effort to shift attention from himself.

Dowdell had started the scam while living in Florida but bought a home in Ivy west of Charlottesville. He even bought lots across the cul-de-sac from his home to preserve his view of the Blue Ridge Mountains.

Dowdell still may have a mountain view. He's serving a 15-year term in a federal prison in Beckley, W.Va., on charges associated with the scam.

He also acknowledged taking in \$121 million in the civil proceeding the SEC filed against him and Vavasour that led to the appointment of Terry.

That amount may include "reinvestment" of non-existent returns by some of the early investors, Terry said.

In an interview with Virginia Lawyers Weekly 2-1/2 years ago, Terry said he had already tracked down \$25 million. He's

reluctant to say precisely how much he has collected because he doesn't want to tip off holders of assets that he's still pursuing.

Much of the early collections were from close relatives of Dowdell, each of whom typically got a house and a car from proceeds of the scam.

Terry used fraudulent conveyance law to win judgments or settlements from those relatives and obtained a series of favorable rulings on the nuances of the law, such as the more favorable approach of the Uniform Fraudulent Conveyance Act, compared to the Virginia law on the subject. Senior U.S. District Judge James H. Michael Jr. presided over many issues in the receivership before his death last September.

The Covington & Burling law firm agreed to pay \$150,000 after Terry contended that they should have known that the money they received to represent a member of Terry's family in a contest over money in an Irish bank came from of the Ponzi scheme.

Terry found that Dowdell tried to limit the number of people that he dealt with directly so that he had contact only with about 70 people, most of whom were marketers for the scam. Terry estimates that 1,100 to 1,200 people invested in it.

The scam was truly international, with money pouring in from Denmark, Sweden, Australia and the United Kingdom. In this country, many of the investors were victims of marketers working in Utah and Arizona.

After the SEC caught Dowdell, he laundered \$850,000 from the United Kingdom while he was ostensibly cooperating with the agency. That episode earned him a jail term for contempt of court, so that he was held without bond while the criminal charges against him were pending.

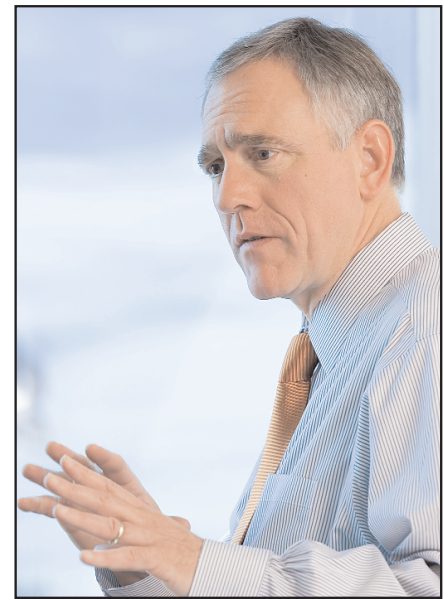
Dowdell cooperated with Terry's efforts to some extent, but two accountants in England took over the scam after the SEC brought charges, and he was not aware of the extent of their thievery, Terry said.

A liquidator was appointed in the United Kingdom to marshal the assets related to the fraud of the accountants, and criminal charges are now pending against them there.

In April 2004, Terry and the UK liquidator signed a cooperation agreement in which they agreed to focus first on the recovery of assets and to delay determination of how those assets should be distributed.

Terry believes that agreement played a role in getting funds that had been frozen in a bank in Guernsey, where the island's loose political association with the British government makes it a tax and cash haven. When there is a contest over an asset held in such a haven, governments can simply forfeit those assets, Terry noted.

To win the money, Terry and the UK liquidator had to distinguish a 30-year-old



ROY M. TERRY JR.

precedent that had rejected an effort by an American receiver to recover the assets of a Bahamian company because the action was government-sponsored and penal.

In what he believes was the first appearance by an American lawyer before a Guernsey court, Terry argued successfully that the effort in this case was remedial and aimed at compensating individual victims rather than vindicating the government.

He said he believes that the search for assets is almost over, so that he and the UK liquidator can turn their attention to distributing those assets.

He said he expects to give notice by this summer to known investors and to advertise in newspapers in areas where the scam was concentrated. He said he hopes to distribute about half the assets by the end of they year and to pay out the balance by the end of 2007.

DuretteBradshaw competed with four other firms to win the contract with the SEC to conduct the receivership, which involves many of the principles Terry uses in his work as a U.S. bankruptcy trustee. He has set up a Web site, www.dowdell-receivership.com, with links to documents related to the case, *SEC v. Dowdell*, U.S.D.Ct., W.D.Va., Civil Action No. 3:01CV00116.

The work has involved three other lawyers in the firm—Douglas Scott, John C. Smith and Barrett E. Pope. "It's been fascinating and rewarding . . . and we've been very successful" in tracking down the assets, Terry said.