U.S. SECURITIES AND EXCHANGE COMMISSION

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Securities and Exchange Commission v. . Estate of Kenneth Wayne McLeod, Federal Employee Benefits Group, Inc., and F&S Asset Management Group, Inc., Civil Action 10-CV-22078 (S.D. Fla. June 24, 2010)

The Securities and Exchange Commission today announced that it obtained an asset freeze and other emergency relief against a Jacksonville, Fla., retirement benefits consulting firm that defrauded active and retired government employees and law enforcement agents nationwide through a Ponzi scheme that promised safe investments.

The SEC charged the estate of the recently deceased Kenneth Wayne McLeod, his benefits consulting firm, Federal Employee Benefits Group, Inc. (FEBG), and his registered investment adviser, F&S Asset Management Group, Inc. with fraudulently soliciting government employees to invest in a government bond fund that didn't exist.

The SEC alleges that McLeod lured many of his investors through retirement benefits seminars he gave at government agencies nationwide. He raised at least $34 million since 1988 from an estimated 260 investors around the country. The security of the government bonds was a key element of McLeod's deception but he never purchased any bonds. Instead, he used the investors' retirement savings to conduct a Ponzi scheme, to pay himself, and to pay for lavish entertainment, including annual trips to the Super Bowl for himself and 40 friends.

According to the SEC's complaint, filed on June 24, 2010, in the U.S. District Court for the Southern District of Florida, McLeod traveled to various state and federal government agencies to conduct FEBG employee benefits counseling and planning seminars. FEBG also provided individuals with personalized benefits analyses specific to their retirement plans and financial portfolios. Individuals could also choose to have F&S Asset Management manage their money.

The SEC alleges that in addition to the traditional investments McLeod offered through F&S Asset Management, he offered many investors guaranteed annual returns of eight to ten percent through a purported tax-free "FEBG Bond Fund" or "FEBG Special Fund." He falsely told investors that their principal would be 100 percent invested in and secured by government bonds. McLeod explained to several investors that the fund invested in government securities that provided a 13 percent return. McLeod misrepresented that he used the three to five percent spread to expand FEBG and his other businesses, but the investors' principal would remain untouched.

To perpetuate the scheme, McLeod told investors that their principal would be locked up for various periods of up to eight years, supposedly due to the long term nature of the fund's underlying bonds, the SEC's complaint alleges. He also issued some investors false FEBG Bond Fund account statements, which showed fake interest earnings. Furthermore, he gave investors the option to reinvest their quarterly interest earnings rather than receive distributions, which many investors did.

The SEC alleges that the purported safety of the bond fund was an important factor in some investors' decision to retire from law enforcement or public service. Based on McLeod's misrepresentations, some investors rolled over their retirement and savings accounts into the bond fund or invested their inheritances and their children's tuition savings.

The SEC's complaint charges the Estate of McLeod, FEBG, and F&S Asset Management with violations of Section 17(a) of the Securities Act of 1933, Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder. The complaint further charges the Estate of McLeod and F&S Asset Management with violations of Sections 206(1) and (2) of the Investment Advisers Act of 1940. In addition to emergency relief, the SEC is seeking disgorgement against all of the defendants, and money penalties, and preliminary and permanent injunctions against FEBG and F&S Asset Management.

On June 24, 2010, the Honorable Federico A. Moreno, U.S. District Judge, entered an ex parte emergency order temporarily restraining FEBG and F&S Asset Management and freezing their assets and the assets of the Estate of McLeod. The order also provides for expedited discovery, a sworn accounting and the preservation of records.

The Court also appointed Michael Goldberg, an attorney with the law firm of Akerman Senterfitt of Fort Lauderdale, Florida, as a receiver over FEBG and F&S Asset Management. Among other things, the receiver is responsible for marshaling and safeguarding assets held by these entities. A hearing has been set for July 6, 2010, in Miami, Florida to determine whether the emergency asset freeze and other relief should remain in effect.

The SEC acknowledges the assistance of the Financial Industry Regulatory Authority.

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See Also: SEC Complaint

http://www.sec.gov/litigation/litreleases/2010/lr21569.htm

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