Broker aided Madoff, US says

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Jaffe's profits called fraudulent; SEC seeks return of investor money

By Beth Healy, Globe Staff | June 23, 2009

Boston broker Robert M. Jaffe was a key source of fresh investor cash for Bernard L. Madoff, federal regulators alleged yesterday, steering $1 billion in client funds to the man who was conducting the biggest fraud in Wall Street history, and earning $150 million for himself in return.

The Securities and Exchange Commission yesterday in a civil suit charged Jaffe, 65, and the Madoff-controlled brokerage he worked for, Cohmad Securities Corp., with fraud for “knowingly or recklessly’’ participating in Madoff’s Ponzi scheme.

For two decades, the SEC alleged, Jaffe and members of the Cohn family, which ran Cohmad, delivered a large portion of the money Madoff collected, peddled the Madoff mystique, and covered their tracks - leaving few records of the ties between the firms, on Madoff’s orders.

Jaffe’s lawyer, Stanley S. Arkin, denied the charges in a statement, saying the complaint is “unfair, baseless in the law, and is inaccurate in its understanding of the facts and of Mr. Jaffe.’’

The case marks the first time regulators have charged an outside firm with participating in Madoff’s scheme. They are seeking the return of allegedly ill-gotten gains.

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The SEC charge delivers a blow to Jaffe, a member of a wealthy philanthropic family who has portrayed himself as an unwitting dupe in the Madoff affair. Known in social circles for his outgoing personality, dapper dress, and low golf handicap, Jaffe would offer access to the elite Madoff investment shop as his calling card. Indeed, many people didn’t know he earned money for his referrals.

But according to the SEC, Jaffe earned more from Madoff than all of the other Cohmad employees combined, and in a highly irregular fashion: in the form of investment gains in his personal accounts at Madoff’s firm.

Between 1996 and 2008, the Newton native - who moved in wealthy circles from Weston to Palm Beach, Fla. - earned annual returns of up to 46 percent on Madoff investment accounts, while the clients he charmed at charity galas and country clubs earned 12 percent to 18 percent, the SEC said. He withdrew $150 million in gains in that period, according to the SEC.

Moreover, Jaffe would often make requests to Madoff for his compensation, the SEC alleged, “seeking a specific dollar amount of gains for a given period.’’ A Madoff employee would backdate trades at Jaffe’s their last names to make the name Cohmad.

Jaffe and the Cohns have repeatedly denied they knew Madoff was stealing clients' money, instead of investing it. But the SEC complaint, filed in US District Court in New York, said they either knew or should have known Madoff was breaking the law.

Regulators described Cohmad as "integrated and indistinguishable" from Madoff's firm, a "stealth sales force" sharing the same Manhattan offices. Madoff paid commissions of nearly $100 million to Cohmad employees, accounting for 90 percent of Cohmad's revenue.

In a separate complaint yesterday, the SEC charged a California investment adviser, Stanley Chais, with fraud for sending $900 million to Madoff on behalf of his customers and charging them $250 million in fees.

"These Madoff solicitors collectively received several hundred million dollars in fees over the past few decades while Madoff ruined the finances of countless investors," James Clarkson, acting director of the SEC's New York office, said in a statement about Jaffe, the Cohns, and Chais.

A lawyer for the Cohns, Steven Paradise, said his clients would challenge the charges. "Efforts to accuse Cohmad, Maurice or Marcia Cohn of fraud or complicity in any of the acts of Bernard Madoff are simply not based on any facts or evidence that we have seen. Our clients remain as shocked as anyone by the revelations of Mr. Madoff's fraud," he said.

Chais's attorney, Eugene Licker, told the Associated Press that Chais "is solely a victim."

Also yesterday, Irving Picard, the court-appointed trustee in the Madoff bankruptcy case, sued Jaffe and the Cohmad principals, seeking to recoup their earnings from the scandal to reimburse victims. He alleged Cohmad provided 20 percent of Madoff's client funds and "had little other business or purpose, apart from steering customers" to Madoff.

Jaffe and his lawyers have been fighting requests from Massachusetts Secretary of State William F. Galvin for information on his Cohmad activities. It was Galvin's office that first revealed that Madoff's wife, Ruth, in the weeks before her husband's arrest, withdrew $15.5 million from an account she kept at Cohmad.

The two complaints paint Jaffe as a person with a special relationship with Madoff. Jaffe served as a personal reference for Madoff when he sought entrance to the tony Palm Beach Country Club, according to Picard's complaint. And Madoff specifically sought out Jaffe to run the small Cohmad office in Boston's Back Bay, the SEC said, because he was the son-in-law of one of his longtime clients, Carl Shapiro.

"He'd been known as the guy who can get you in," said Ross B. Intelisano, a New York lawyer representing a number of Madoff victims, including some who were introduced by Jaffe. Speaking about the SEC allegations that Jaffe received higher returns than his clients, Intelisano said it appears Jaffe should have known Madoff was acting improperly. "You have to know there's no way you could get those returns year after year," he said.

SEC lawyers appear to have drawn the same conclusion: that Jaffe should have recognized the higher investment returns he received from Madoff as a tip-off that something was amiss.

But Brenda Sharton, a lawyer at Goodwin Procter in Boston, said this kind of detail shows the regulators' case is circumstantial. Prosecuting Jaffe and the Cohns, she said, "will come down to proving what they knew when."

And if Jaffe knew, who else in his circle knew? His father-in-law, Carl Shapiro, is a former dress merchant who was one of Madoff's first investors and is said to have thought of Madoff as a son. Investing with Madoff, Shapiro, 96, parlayed proceeds from the 1971 sale of his business into a fortune exceeding $1 billion, say people who know him. But as of Dec. 11, after Madoff confessed to defrauding investors of at least $50 billion, the Shapiro family said they, like others, were victims.

The Carl & Ruth Shapiro Family Foundation, major contributor to Boston institutions, lost nearly half its assets, or about $145 million, in the Madoff scandal, they have said. And Shapiro had invested another $250 million, at Madoff's request, in the weeks before his scheme collapsed. Shapiro is believed to have had other funds with Madoff, as well, bringing his losses over $400 million. Jaffe is married to one of Shapiro's daughters, Ellen Shapiro Jaffe.

Picard has been pursuing Madoff's large, longtime investors for "clawbacks," money they supposedly reaped from false investment gains that belongs to other clients. Picard has not said whether he is pursuing a clawback claim against the Shapiros.

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