

Investors will be lucky to see any cash

Properties are underwater — and lawyer gets paid first

By KATHERINE YUNG
FREE PRESS BUSINESS WRITER

When federal securities regulators halted an alleged \$55-million Ponzi scheme almost a year ago, none of the 440 victims could have imagined that the man being charged with fraud would be given the opportunity to buy back some of his company's real estate that the government had seized.

But that's exactly what happened.

Despite a court-ordered freeze on his assets, earlier this year ex-Brighton resident John Bravata, the founder and chairman of Southfield-based BBC Equities, made some bids for properties owned by his former real estate investment company that were put up for sale by a court-appointed receiver. In late April, U.S. District Judge David Lawson even approved the sale of one property, a home in Three Rivers, to Bravata for \$16,500 in cash.

Bravata ultimately backed out of the deal, according to his Atlanta attorney Gregory Bartko. He said Bravata is not raising money to do more real estate investment deals, but is interested in some of the BBC properties that the receiver, Earle Erman, abandoned. "Some of these properties were cash-flowable properties and we still don't understand why the receiver threw them out the door," Bartko said.

So far, Bravata has not succeeded in buying back any of these properties. But some BBC investors are appalled that Lawson, who's overseeing the government's civil lawsuit against Bravata, has permitted this type of activity. Bartko described the situation as a "very unusual privilege." He wouldn't comment when asked whether Bravata is trying to create a new real estate business.

"This is crazy," said Johnny Cassar, a Canton resident whose 78-year-old mother lost \$175,000, a big part of which was going to be donated to St. Jude Children's Research Hospital. "He's got his freedom and people have to go back to work."

He and several other investors believe they should have a say in what happens to the properties because their money was used to purchase them. Instead, they have received little information from Erman.

"We totally got screwed," said Kathleen Scherer, a nurse



REGINA H. BOONE/Detroit Free Press
David Bochniak and his wife, Kendra Sparks, play with their dogs at their Livonia home — a home they expect to lose in December. Bochniak invested his retirement savings, \$525,000, in BBC securities. Now it's all gone.

What is a Ponzi scheme?

The U.S. Securities and Exchange Commission defines a Ponzi scheme as a type of fraud in which money from new investors is used to pay returns to earlier investors. The scams, which generate little or no legitimate earnings, promise investors high returns with little or no risk. The schemes are named after Charles Ponzi. In the 1920s, he collected millions of dollars from thousands of investors in New England through a scam involving postal coupons. Ponzi schemes usually collapse when the number of new investors dwindles or many of the existing investors demand their money back.

Recent top Ponzi schemes in Michigan

Here is a list of the largest alleged Ponzi schemes uncovered in Michigan during the last three years, according to the state's Office of Financial and Insurance Regulation:

- Legisi Holdings: \$72 million from more than 3,000 investors.
- BBC Equities and Bravata Financial Group: \$55 million from 440 investors.
- Platinum Business Industries: \$50 million from more than 600 investors.
- Various businesses run by Michael Winans Jr.: \$11 million from more than 180 investors.

who no longer goes out to eat or takes vacations after losing \$300,000. "I just feel there is no justice system."

Erman, who has been selling BBC's assets to recoup money for investors, told the court in a March report that "there does not appear to be a reasonable prospect of any sig-

nificant recovery for creditors and investors." Of BBC's 70 properties, 53 were underwater — or worth less than the mortgages on them.

Any proceeds from the sale of the remaining properties and other assets, such as Bravata's 1995 Ferrari and 2007 Maserati, will go first toward paying Erman, whose fees in mid-March totaled more than half a million dollars. Erman declined to comment, citing the U.S. Securities and Exchange Commission case.

What's happened to BBC investors isn't unique. By the time most Ponzi schemes are exposed, most of the money is already gone. "If investors get a nickel on the dollar back, they are lucky," said Peter Henning, a Wayne State University Law School professor and white-collar crime expert.

Bravata, who's now spending time in Michigan, Florida and Colorado, has not been charged with criminal wrongdoing, but is under investigation by a grand jury. He declined to comment.

"I believe the SEC has not adequately shown anything close to the allegations of a Ponzi scheme or anything close to the allegations of fraud," Bartko said. "Here they are a year later and they are no further than when they filed the lawsuit."

The SEC shows no signs of backing down. When asked how confident the agency is of winning the case, Jonathan Polish, one of its attorneys, said, "I'm very confident. Many of the allegations in our complaint Bravata is not going to be able to dispute. It was a Ponzi scheme."

Both sides expect Lawson soon will release his opinion on Bravata's request to unfreeze

reactions spokesman said board officials would discuss the situation today.

Typical of objections was the message sent to the Free Press from retired officer Gary Shaffer: "I knew Carl Lindberg. We were in the (same) recruit school. I did not get to know Carl very long. Neither did his family. I strongly disagree with the very idea that this KILLER would even be considered for a commutation hearing."

Although he won't be freed, Duprie had made his way into the commutation pipeline because the Granholm administration and the Corrections Department have accelerated efforts to reduce the number of prisoners behind bars when they are deemed not to pose a threat to public safety.

That has meant increased rates of parole and a rapid up-tick in the number of commutations under consideration and granted by Granholm, who has sole discretion to approve

or disapprove requests for commutation or pardon.

Duprie was recommended for review by prison officials, Corrections spokesman Russ Marlan said.

In his request to the Parole and Commutation Board, Duprie said Lindberg's death was the result of his making "a terrible decision" for which he was sincerely sorry.

Duprie and his codefendant, who died in prison in 1983, had gone to an apartment complex on Detroit's west side in 1969 to rob an elderly couple. Lindberg, who also lived there, was summoned to their assistance by a manager and shot in a hallway outside the door. He died after emptying his service revolver in the shootout.

Duprie subsequently claimed to have been outside when the shooting occurred, but it was unclear from records whether that claim was substantiated at his trial.

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SCHEMES UNRAVEL FAST WHEN ECONOMY STALLS

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za."

Michigan's Office of Financial and Insurance Regulation does not track the number of Ponzi schemes in the state. But last year, the U.S. Securities and Exchange Commission filed 60 enforcement actions across the nation against such scams, almost double the number in 2008.

Experts say tough economic times cause many of these scams to unravel because finding new investors to keep them afloat becomes much harder. "What happens during a recession is that more Ponzi schemes are discovered because there are no more investors," said Tamar Frankel, a professor at Boston University School of Law.

The Bernard Madoff scandal also has increased awareness of this kind of investment fraud, she said. Last year, Bart Chilton, a member of the U.S. Commodity Futures Trading Commission, described the situation as a "Ponzi-palooza."

"John is a fighter," he said of Bravata. "He's got a lot of energy and he's doing what he's doing to maintain his family. It isn't easy."

But Bartko had few words of comfort to offer BBC investors, calling the loss of retirement money "tragic."

BBC investors now must wait at least another year, if not longer, for Bravata's trial to begin. That likely will come too late for Kendra Sparks and her husband, David Bochniak, who expect to lose their home

in December. Sparks lost her job at a linen company two weeks after the SEC filed its lawsuit against Bravata, and still is looking for work.

Bochniak, 55, spent 35 years at AT&T and took a buyout in March 2009, with plans to retire. A month later, he invested all of his retirement savings, \$525,000, in BBC securities. Now it's all gone.

"At 55, what's a person supposed to do?" Sparks asked.

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