

# Madoff Suits Settled With BNY Mellon Unit

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A Bank of New York Mellon Corp. unit will pay \$210 million to resolve a series of lawsuits alleging that it concealed doubts about the business operated by convicted Ponzi scheme operator Bernard L. Madoff.

The settlement by Ivy Asset Management LLC, which comes less than a month before the fourth anniversary of Mr. Madoff's fraud coming to light, marks the latest step toward recovering assets for investors with Mr. Madoff's firm. It resolves litigation brought by the New York Attorney General's office, the U.S. Department of Labor and investors. An additional \$9 million will be contributed by other individual defendants in the cases.

None of the defendants admitted wrongdoing as part of the settlement, which requires a judge's approval.

"Ivy is pleased to have reached an agreement that allows it to put these matters behind it," a spokeswoman for Ivy said.

The settlement brings to a close a series of lawsuits against investment advisers

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that directed clients to invest with Mr. Madoff's firm. Such suits have attempted to broaden liability for Mr. Madoff's scheme to include the financial advisers and others who profited by advising clients to invest with his firm.

The lawsuits were part of the flurry of litigation that began after Mr. Madoff's massive fraud was uncovered in 2008. The vast majority of the lawsuits—more than 1,000—have been filed by Irving Picard, the trustee charged with recovering assets for victims of Mr. Madoff's scheme. Mr. Picard has recovered more than \$11 billion in assets to date.

Ivy was one of several funds that advised clients to invest with Mr. Madoff's firm, according to the lawsuits. Its relationship with Mr. Madoff's firm began in 1987. Over the course of several years, Ivy's top executives began to express reservations about the performance of Mr. Madoff's firm, but they failed to notify their clients and continued to invest with him anyway, according to the lawsuit filed by the New York Attorney General's office. The suit contained emails from some of Ivy's top executives grappling over what to do.

In one email cited in the New York Attorney General's lawsuit, dated 2002, Ivy co-founder Howard Wohl responded to a subordinate trying to analyze Mr. Madoff's apparent success by writing; "Ah, Madoff. You omitted one other possibility—he's a fraud!"

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## **The settlement resolves a series of lawsuits against investment advisers that directed clients to Bernard Madoff's firm.**

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Ivy allegedly received more than \$40 million between 1998 and 2008 to give advice and conduct due diligence for clients who had large investments with the Madoff firm.

As a result of Ivy's actions, investors suffered more than \$227 million in losses, the lawsuit said.

"After learning a series of disturbing facts about Madoff, defendants determined that no investment in Madoff was warranted," according to the original lawsuit filed in May 2010 by the attorney general. "But rather than disclose this determination to their clients, defendants hid the truth from their clients and misled them about Madoff."

The attorneys generally seek

about Madoff.

The attorney general's suit was filed under New York's powerful Martin Act, which allows New York's attorney general to pursue cases of securities fraud, as well as fraud in the conduct of business and breach of fiduciary duty.

"An investment adviser should apprise its clients of risks, but Ivy deliberately concealed negative facts it uncovered in its due diligence of Madoff in order to keep earning millions of dollars in fees," New York Attorney General Eric T. Schneiderman said Tuesday. "As a result, its clients suffered massive and avoidable losses."

Mr. Picard reached a settlement with Ivy Asset Management and others last week in which they would pay \$24 million to the Madoff bankruptcy estate, representing a 100% return of money Ivy and other entities withdrew from the Madoff firm in the six years before the fraud came to light. As a result, Mr. Picard isn't likely to challenge Mr. Schneiderman's settlement.

The founders of Fairfield Greenwich Group, which funneled billions of dollars to Mr. Madoff's firm, agreed last week to be part of a \$80 million settlement to end a lawsuit by investors in its Sentry funds who sought to recover money they lost in Mr. Madoff's fraud.

Tuesday's settlement also resolves claims brought by the Labor Department against Ivy and other funds, including **J.P. Jeanneret Associates Inc.**, **Beacon Associates Management Corp.** and **Andover Associates Management Corp.** That lawsuit charged that the funds breached their fiduciary duties to several pension plans.

Attorneys for J.P. Jeanneret and Andover couldn't be reached for comment.

Tad Rosenfeld, an attorney for Beacon, said: "I think our clients are just relieved that the process is over."