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Stiffer sentences for Ponzi scammers only a good first step, victims say

Colin Perkel, THE CANADIAN PRESS

TORONTO - Stiffer sentences for white-collar criminals promised by the federal government are only a first step in the battle against Ponzi and other financial scams that seem to grab headlines almost daily, victims say.

They say there's still a crying need for public education, proper enforcement and industry regulation with teeth to combat crimes that can be as devastating for victims as any serious assault.

"It's just as serious or violent or other crime," said Joey Davis of Montreal whose mother lost \$200,000 to an alleged fraud by investment dealer Earl Jones.

"It's emotionally violent, it's mentally violent."

On Tuesday, representatives of nine victims groups met Prime Minister Stephen Harper to complain about the anemic fight against white-collar crimes such as Ponzi schemes that have seen thousands of small-time investors defrauded.

In July, for example, Montreal money manager Earl Jones was charged with fraud for allegedly operating a Ponzi scheme that swindled about 150 investors, including Davis's mother, of at least \$30 million. On Monday, police charged two Alberta men with operating another Ponzi-type scheme that netted about \$100 million in investments.

In June, the Ontario Securities Commission laid charges in provincial court against Weizhen Tang of Oversea Chinese Fund LP, who was accused of improperly raising \$40-million from investors.

Following the meeting with Harper, Justice Minister Rob Nicholson promised legislation this fall that would impose mandatory minimum jail terms, longer sentences and confiscation of assets. He gave no details, but said the government was also planning to change the rule that allows white-collar criminals to get parole after serving just one-sixth of their sentence.

Critics of the Canadian system say that former media mogul Conrad Black, convicted in 2007 in the United States of obstruction of justice and three counts of fraud, would likely be free today if his trial had been held in Canada instead of Chicago.

The former Hollinger newspaper group CEO remains behind bars in a Florida prison and must serve most of his six and a half year jail sentence under U.S. practice for white collar crimes.

Last month, two former Toronto theatre executives, Garth Drabinsky and Myron Gottlieb, were each sentenced to seven years in prison after they were convicted of defrauding investors by cooking the books of their Livent theatre company. They have appealed their case.

Though Nicholson provided no specifics on what measures he intends to take to crack down on white collar crime, activists welcomed the announcement as a signal that attitudes are starting to shift away from blaming victims for



Joey Davis, whose mother lost \$200,000 to an alleged fraud by investment dealer Earl Jones, speaks to media Aug. 27, 2009 in Quebec City. THE CANADIAN PRESS/Jacques Boissinot

being greedy.

Diane Urquhart, a Mississauga, Ont.-based independent financial analyst and investor activist, said stiffer penalties are good start.

"It's a turning point for recognition that white-collar crime is comparable to violent crime and deserves jail sentencing," Urquhart said.

"But unless you have your securities-crime police system working, it will have no effect."

Jenn Lofgren, of Calgary, who saw about \$80,000 disappear in what she believed was a steady and plausible retirement investment, said the big issue is enforcement.

Police, she said, lack resources and expertise to deal with what are often highly sophisticated scam artists and make impossible demands of complainants.

"There's an onus on victims to provide evidence of where their money went," Lofgren said.

What it amounts to, she said, is making a homeowner after a burglary tell police who stole the TV and where it is.

Victims also complain that investigations and eventual prosecutions against perpetrators take far too long.

A huge problem, investors say, is that too much responsibility for investigating white-collar crime has fallen to the RCMP Integrated Market Enforcement Team, which has neither the resources nor a clear enough mandate to tackle the problem.

Under current protocol, the Mounties cannot pursue an investigation unless recommended by the joint consultative group, which comprises managers from various agencies involved in enforcement and prosecution, including securities regulators and others in the financial industry.

Even when self-regulating bodies act against wayward members, the cases don't get pushed back up to police for criminal prosecution, victims say.

Duped investors are fighting back with political lobbying, rallies and petitions. They want better integration and more money for police fraud squads across the country, perhaps a specialized police unit, as well as a national regulatory board to replace the hodge-podge of provincial agencies and organizations that now exist.

Some are calling for mandatory licensing for salesmen of financial products along with education and training, so insiders would be better equipped to spot shady practices.

Greg Pollock, CEO of Toronto-based Advocis, the Financial Advisers Association of Canada, noted that many con artists often hold themselves out to be registered or licensed when they aren't.

"They're just tarnishing the reputations of many of us who work in this industry," Pollock said. "We don't want these bad apples in there."

At the very least, he said, Canada needs a national database of licensed financial advisers that members of the public can access along with better integration of the various regulatory organizations.

At the same time, consumers have to do their own due diligence by checking credentials of their financial advisers, ensuring the people they deal with have liability coverage, and should steer clear of investments that promise extraordinary returns, Pollock said.

Victims, who plan a rally at Montreal courthouse Sept. 28 when Jones is scheduled to appear in court, are hoping for similar rallies across the country to draw attention to the issue.

More information can be found at <http://www.beststrongfoundation.org>.

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