

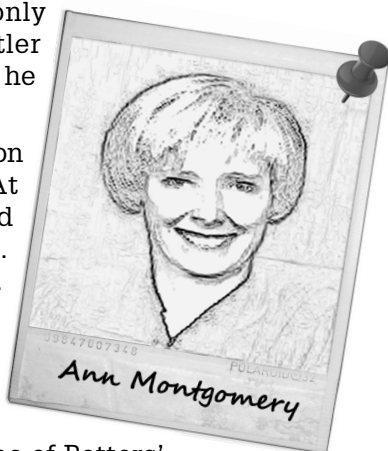
Where's The Money?

Behind the Scenes of the Petters Scam: Part 5

Tom Petters' arrest on fraud charges in October 2008 was not his first encounter with the law. Back in 1990, he was charged in Colorado with forgery and fraud in a bad-checks case. Nobody would know about it, though, because Petters got a Minnesota court to erase his Colorado record. In 1994, the Hennepin County Attorney agreed to wipe the Colorado case off the books. As a result, investors checking into Petters' reputation and record couldn't find out about those fraud charges.

After that victory in Minnesota state court, Petters went on to win favorable rulings in federal court here. In 2002, Judge Ann Montgomery threw out a lawsuit that an investor, Richard Hettler, had filed against Petters. Not only that, but Montgomery later barred Hettler from filing any further suits over amounts he alleged Petters owed him.

In the fall of last year, Petters knocked on Montgomery's courthouse door again. At his side was Doug Kelley, a lawyer he had just hired to represent his companies. Kelley went way back with Montgomery. They had been law school classmates at the University of Minnesota. During the late '70s and early '80s, they worked together in the U.S. Attorney's office.



Montgomery was asked to freeze some of Petters' assets, the ones that were related to the alleged Ponzi scheme, and she did so on October 3rd, 2008, a Friday. Her court order was issued *ex parte*, meaning that the other side—Petters' creditors—were not given the opportunity to make their case against the asset freeze. On the following Monday, Montgomery gave Kelley sweeping powers as receiver over Petters' assets—all of them this time, not just the ones implicated in the Ponzi.

Meanwhile, numerous creditors were suing Petters in different states. Montgomery was asked to halt all those lawsuits in their tracks, which she did with an indefinite "stay on litigation." That wasn't all. She gave Kelley "judicial immunity," the same protection from lawsuits that judges enjoy.

As one national bankruptcy law expert has said, "To be given absolute immunity, judicial immunity, so far as I know, is unprecedented in the bankruptcy context."



Monday: Minnesota handles the Petters Ponzi scheme one way; New York handles Bernard Madoff's another.

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