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A Banker's Seven-Year Fight for His Reputation Against FINRA

BY RICHARD WILLIAMSON
MAR 23, 2015 1:32pm ET

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DALLAS - Mel Schonhorst devoted 24 years of his life to a career in public finance; he spent the next seven trying to clear his name after being caught up in an El Paso, Texas, corruption scandal that led to convictions of bond industry executives and dozens of local



Image: Richard Williamson

Mel Schonhorst, former managing director for RBC Capital Markets, was never accused of any crime but was fired after his name surfaced in a federal investigation in El Paso.

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Though Schonhorst won a multi-million dollar arbitration award from RBC Capital Markets for wrongful termination and defamation, he was unable to get the same Financial Industry Regulatory Authority arbitration panel to remove a statement that said he was under investigation.

"It was just a very bizarre set of circumstances," said Bill Singer, an attorney specializing in securities law and former investigator for FINRA's predecessor, the National Association of Securities Dealers. "It seemed like a Kafkaesque novella or short story."

After a second round of arbitration, Schonhorst can finally point to something: a FINRA filing known as a Form U5 stating that he has never been charged with any crime or regulatory violation and that the statute of limitations for any charge has run out.

The notice was posted Jan. 30, amending a 2007 filing that said Schonhorst's license was revoked because he was under investigation, an assertion that FINRA arbitrators ruled was true at the time it was filed and could not be expunged until the investigation had run its course.

In a [Nov. 10, 2011 decision](#), the FINRA arbitration panel awarded Schonhorst nearly \$5.2 million in damages from RBC. However, the 2007 U5 remained on file, and he had to wait until the five-year statute of limitations before seeking to have the statement expunged, according to the FINRA ruling.

The award has been settled between Schonhorst and RBC under terms that cannot be disclosed, according to Schonhorst's attorney, Robert M. Thornton.

RBC declined comment on the matter.

With the issue finally resolved, Schonhorst, 60, is considering his options for the remainder of a career wrecked by events that he says took him by surprise in the pivotal year of 2007.

Schonhorst said he was on vacation with his family in Rome that August when he was told over the phone that he was fired.

At the time, Schonhorst's father was in the hospital with a broken hip, and Schonhorst thought the call from his supervisor was about that.

"I thought they were calling about my father," he said. "They were calling about my employment

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status. I couldn't believe it."

"They just made two statements," Schonhorst recalled. "They said there was an investigation going on in El Paso - they didn't say I was under investigation -- and we think you've broken company policy. So, we're terminating you, and in lieu of notice, we're giving you two weeks' severance."

By the time Schonhorst was able to return to his home in Dallas, his father had actually passed away, he said. As he was arranging for his father's funeral in August 2007, he was also looking for a lawyer to investigate why he was under investigation.

"It was not a good month," he said.

According to Schonhorst's account, he was a peripheral player in the El Paso County public finance arena who got swept up in a dragnet-style investigation of virtually every local government agency and business that had contracts with the city, county or school districts.

The public corruption investigation that came to be known as the "Poisoned Pawns Operation" began in 2004 and branched into 12 separate investigations, according to court documents. More than \$2 billion of contracts were under scrutiny. Of the 80 persons of interest implicated in the early stages of the investigation, 35 were past or present elected officials, 13 were lawyers and three were former or current judges. Investigators placed phone taps on 154 people.

Schonhorst said his only involvement with a debt issuer in the county occurred Dec. 4, 2006 when he met with officials from the El Paso Community College District to discuss ways to improve the district's credit rating.

"That was really not my territory," he said. "But I was called in to solve a technical problem that I had already solved for other colleges, and so I went out there for the first time for a public board meeting on how we could make their credit structure stronger."

Schonhorst said that, unbeknownst to him at the time, Bear Stearns banker Roberto "Bobby" Ruiz and Christopher Chol-Su Pak were about to face investigation by the FBI for offering bribes to officials at the county and the community college district.

Both pleaded guilty in 2008 to conspiracy to commit mail fraud, wire fraud and the deprivation of honest services in their dealings with the county. Their employer would collapse that year with \$13.4 trillion of derivatives on its books and be sold to JPMorgan.

The first Schonhorst heard of the FBI investigation was May 2007 in local news reports, he said.



His name would not come up until later that summer. First Southwest Co., El Paso County's financial advisor, was mentioned in court documents, including one that said First Southwest's managing director refused to pay the "requisite bribes."

The El Paso County Commissioners, to the surprise of some, decided to replace First Southwest as financial advisor in 2007 on a \$40 million refunding that became the central focus of the county bribery investigation. After First Southwest was dismissed, RBC was one of the bidders for the FA job but later withdrew.

"I really didn't know what to think about it," Schonhorst said of the initial reports. "To me, showing folks research was very normal, and the firms we worked with had very good reputations. Everybody in the state worked with those firms in different capacities, so I was very surprised."

The U5 stating that Schonhorst was under investigation was filed Aug. 10, 2007 and cited FBI agent Manuel Mora as the source of the information. Mora, who has since retired, denied that he was the source, according to an April 21, 2011 letter from FBI agent David Cuthbertson to Schonhorst's attorney at the time, Charles Weninger.

While some bond industry officials were able to get letters from the U.S. Attorney's Office stating that they were not targets of investigation, Schonhorst was never able to obtain one, even though he offered to take a lie detector test or submit to questioning.

In the 2011 arbitration, Weninger described the process of obtaining a letter clearing an individual of suspicion as "nearly impossible."

Schonhorst and Thornton, his current attorney, said most of the letters issued were only for corporations, not individuals.

Singer said he considers the Schonhorst case to be important because of how it was decided and the events that were happening at the time.

The arbitration panel's decision was logically flawed, Singer said, because it held that Schonhorst was wrongfully terminated but that the grounds for the termination were supported by evidence.

"He got a bifurcated decision in 2011," Singer said. "The money is wonderful, but the problem is that you remain a leper because it was alleged that you were still under criminal investigation."

As Schonhorst was trying to clear his name, the mortgage-backed securities debacle was unfolding, markets were freezing up, and the whole structure of public finance was about to be redefined.

"If you're involved in fixed-income markets, the wheels were beginning to come off in 2008," Singer said. "We were facing the most devastating financial reversal this country has sustained since the Great Depression.

"Good luck finding someone to write a letter saying we're no longer investigating you," he said.

"The problem with the U5 is that it becomes the equivalent of the Scarlet Letter," Singer said.

"Innocent people end up having to go to court and hire a lawyer and seek to get an expungement."

As for those who did win letters from federal prosecutors clearing them as targets, Singer said those are often the product of political pressure from attorneys who were former regulators. He said he has been on both sides of the fight.

"If you voluntarily resign, there is no form U5 required," Singer said. "Most of the time, the explanations are legitimate and accurate. However, there are many recorded instances where the U5 is not properly used and it's used to retaliate against the former employee. You have instances where the system is perverted."

Now that Schonhorst is out of his legal limbo, he is considering a second career as a teacher or some other line of work. He doubts that he will ever work as a banker or FA for another major firm, though in the past eight years, he has done occasional consulting work for small fees.

"Throughout my career, I tried to help clients solve problems and insist on contract terms that protected them," he said.

After he was fired, some of his associates and clients stood by him, even though they could not risk using him in an official capacity, he said.

"I would like them to know that I've been cleared," Schonhorst said. "I don't know how I would have done if I had not had a number of loyal friends who never gave up on me, who stood up by me no matter what the political chatter was. I would just like to say 'thank you' to all the friends that were clients that were in the industry and just personal friends that stood by me."

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