

Dead Hummelstown lawyer's investment scam continues to haunt victims



This stone residence located on Main Street a block away from Hummelstown's Square once housed the law office of the late Jeffrey Mottern who scammed clients out of more than \$11.3 million. (Jan Murphy/PennLive)



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He was more than a lawyer to many of his clients. **Jeffrey Mottern** was a friend, a confidant, a fellow gun enthusiast, a hunting buddy.

JEFFREY MOTTERN

Quite simply, this small-town Hummelstown attorney was someone who so endeared himself to many of his clients that they came to trust him with their money, their future, and the inheritance they wanted to leave to their children.

They learned too late he wasn't deserving of that trust or even the man they thought he was. In fact, he was an outright liar who conned them out of tens or hundreds of thousands of dollars, even more than \$1 million in a couple of cases.

Making matters worse, Mottern has pushed 57 of his former clients, most of them elderly, and their trustees into the position of overcoming their distrustful feelings about lawyers and relying on another group of attorneys to try to recoup in excess of \$11.3 million that they

figure he stole from all of them over the past decade or so.

Mottern isn't around to explain why he scammed his clients, some of whom he had known for much of the time since he started practicing law in 1977. He personally made sure of that.

On the morning of March 17, 2014, he sat down in his law office where he was the sole practitioner, put a gun to his head and pulled the trigger, ending his life at age 62. His blood spilled onto a computer keyboard that the estate lawyer still holds in his possession.

At the time of his death, Mottern was clearly aware people were on to his scam.

A couple of his elderly clients suspicious of what he was up to filed a lawsuit in Dauphin County Court to try to get their money back five days before Mottern's suicide.

Three days after that, the FBI raided his law office located right in the heart of the small borough, hauling away boxes of his files and his computers.

It was only after Mottern ended his life that his clients learned he had surrendered his law license to the Disciplinary Board of the state Supreme Court on July 31, 2013, after admitting professional misconduct related to his investment scam.

And that also was when it became painfully evident to them that their money was gone.

According to a pending lawsuit, Mottern's law practice averaged \$51,941 a year in income from 2004 through 2012, ranging from as low as \$7,746 in 2009 to a high of \$157,186 in 2004.

It goes on to state that between 2004 and 2014, Mottern's account with Ameriprise Financial Services, or one of its predecessors, incurred trading losses exceeding \$5.8 million.

"I think Mr. Mottern got himself in a bind and he couldn't get out of it. And once the ball kept rolling, he couldn't stop it so he took all of us with him," said one of Mottern's former clients, Cosmo Agostino of Hummelstown. "He enjoyed the ride and we didn't."

The "Scheme"

With Mottern gone, forensic accountants had to be brought in to piece together information about what happened with the money he took from his clients.

That served as the basis for the lawsuit that the victims and their trustees filed against Ameriprise and two local banks, Fulton Bank and Riverview Bank, all institutions in which Mottern had a financial relationship that are alleged to have played a role in what the suit identifies as "The Scheme."

The lawsuit was filed in the spring in Dauphin County Court and the banks subsequently had the case moved to federal court. Since then, the battle has centered on which court should have jurisdiction in the case rather than Mottern's deception.

The victims' lawyers hired Devon attorney Glenn Gitomer, who specializes in handling financial litigation, to lead their legal fight. Gitomer declined comment for this story.

The lawsuit describes what many of Mottern's victims have said he told them he was doing with their money. They were told he was investing it in a fictitious, high-yield certificates of deposit supposedly held at SunTrust Bank or comingling it with other clients' money to give them a competitive interest rate.

Victims said previously they didn't become suspicious of Mottern's investment scheme because he would send them monthly statements on his law office stationery, indicating their interest earnings on their original investment. Satisfied to see their money growing, they said it never sounded alarm bells. Rather for some, it allured them to invest more.

In other instances, according to the lawsuit, Mottern simply stole the money entrusted to him by his clients and squandered it

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Dead Hummelstown lawyer's scam victims losing hope of getting money back

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"through personal spending and in part through reckless, senseless, highly leveraged, excessive trading in his Ameriprise Account."

The lawsuit claims that Mottern's banks should have gotten wise to his scam. It says the red flags were there to indicate something smelled rotten.

But Harrisburg attorney Justin Weber, who represents Riverview Bank which also operates as Halifax Bank among other names, said, "The bank acted properly and we intend to aggressively defend the lawsuit."

Mottern would place his clients' money into his business checking account at Fulton Bank or one he had at Riverview Bank for his Interest on Lawyers' Trust Account (IOLTA), which lawyers are required to have to hold money that they have yet to earn for their services or money that is in dispute, according to the lawsuit.

It says Mottern would transfer money between those accounts and his Ameriprise account to cover his speculative trades, pay credit card bills, buy a sports car, and take care of personal expenses for himself and his wife Susan, who lawyers have said is now living in the Pittsburgh area.

Fulton and Riverview Bank had a hand in Mottern's fraud by turning a blind eye to the frequent large currency withdrawals and deposits in Mottern's accounts, disregarding anti-money laundering rules and the banks' own policies about such transaction activity, the lawsuit claims.

Further, it asserts that Ameriprise failed to investigate the veracity of Mottern's false claims of having liquid assets of \$1 million or more.

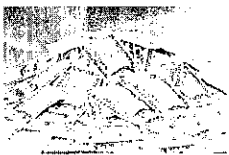
"These reported assets are grossly inconsistent with Mottern's earnings and apparent lifestyle, and never appeared to be adjusted adequately for the massive trading losses incurred in his Ameriprise account," the lawsuit states.

It cites federal tax returns that indicate Mottern lost money in all but three years between 1999 and 2013. In 2008, he lost more than \$1.8 million.

"Mottern engaged in what can only be characterized as reckless, senseless, trading, of monumental proportions, encouraged and abetted by Ameriprise with client funds and the proceeds of a scheme and Ponzi scheme," the lawsuit states.

Ameriprise and Cynthia Nelson, the Ameriprise financial adviser who Mottern worked with, had "actual or de facto control over the trading" in Mottern's account and should not have permitted or encouraged his reckless trading, the lawsuit states.

Attempts to get a comment from representatives for Ameriprise Financial or Fulton Bank were unsuccessful on Tuesday. Cynthia Nelson's name does not appear in Ameriprise's online directory of financial advisers so she was unable to be reached for comment.



5 ways to avoid becoming a victim of an investment scam

Wounds of betrayal are far from healed

The buzz about the police activity that took place at Mottern's Main Street law office has long since died down in the more than two years that have passed. The FBI's interest in what was happening there also has faded, said Jeffrey Engle, the court-appointed lawyer handling Mottern's estate.

His law shingle no longer hangs outside the front door of the stone structure where Mottern practiced law and lived upstairs with his wife.

Engle has rented out the apartment in the back of the house, which eventually will be sold with the proceeds being split between the estate and Mottern's wife.

Other belongings of Mottern have already been sold. Engle found a dealer to take care of selling off the Gatling gun and other firearms and ammunition that Mottern, a competitive long gun shooter, had collected. He also found buyers for Mottern's three cars and liquidated other assets.

Some 112 client files found in Mottern's law office have been returned. Susan Mottern has taken possession of her belongings and a few pieces of furniture, Engle said. Once the outstanding case working its way through a financial arbitration process gets resolved, Engle hopes he can close the estate and make the Mottern matter a distant, yet unpleasant memory.

But the victims of Mottern's investment scam aren't anywhere near that point. The wounds of their lost money and betrayed trust are far from healed.

For some, anger readily rises the more they talk about how Mottern ripped them off and how no one seemed to get suspicious about the large amounts of money rolling in and out of his bank and Ameriprise accounts.

Two victims said they were glad Mottern was dead.

Paul Stokes blames the emotional toll of Mottern's actions at least in part to contributing to his wife Judith's death earlier this year.

"I know she trusted Jeff Mottern more so than I did. She really liked Jeff," said Stokes, who is out \$700,000 that he and his wife were told had been invested in a certificate of deposit.

The couple had learned of Judith's cancer diagnosis before Mottern's scam unraveled and even confided in him about it. But at the time, Paul Stokes said, "we didn't know she would be terminal. I know that played on her dearly, this whole thing. I can't blame everything about her demise on Jeff but it didn't help the situation that's for sure."

Bob and Kay Shaffner now live in Florida. They had to sell their Abingdon, Md., townhouse because they could no longer afford the property taxes on it, thanks in part to the \$413,000 they lost in the scam. The loss of that chunk of their life savings forced Shaffner, a retired insurance agent now in his 70s, to go out looking for a job.

Ken Felty was in need of a lawyer and he saw Mottern's name in a newspaper ad that he long since has regretted ever spotting. After meeting with Mottern, he came to learn that legal services wasn't all the lawyer was selling.

"He really had a line that he was really going to make me a lot of money," said Felty of Harrisburg. "I invested \$100,000 with him to put in a trust for my wife. My wife has MS and I knew she would have to be put in a home, so I put the money in a trust for her and it's gone."

Thanks to some government assistance and other savings he had set aside, Felty since has been able to move his wife into a nursing facility in Middletown. But he recalls how his wife told him many times that she didn't trust Mottern.

"If I would have listened to my wife, I wouldn't be struggling to keep her in a home, but as they say, hindsight is 20-20," Felty said.

Jeffrey Feehrer, 69, lives in a rundown trailer. His health isn't good. And he struggles to get by on what he can scrounge up. For him, the more than \$115,000 he inherited when his father died and had invested with Mottern was his safety net.

"My intent was, if in the future I needed that money, like to live in a nursing home, or if my kids, my two sons ever needed help, it would be there," Feehrer said. "I never spent a penny of it. One of my sons could use the financial help now and it's very distressing as a parent, I can't help my kid."

Kathryn Swartz, 93, lost more than most of Mottern's clients. She is out nearly \$709,000. She still has the money she needs to get by, but her former lawyer's scam has caused her to become more pennywise.

"I don't buy things I normally would have," said Swartz of Hershey. "I used to give gifts of money to different people. I cut that out."

I just have kind of cut out some of the outflow because, after all, I do have to watch. I don't know how many more years I'm going to live. I have to cut back."

Then there's the Stephensons, Barbara, 88, and her 59-year-old severely disabled son Donald Jr. Combined, they lost nearly \$175,000 that was put away to care for Donald after she was gone. Some of that is money Donald earned when he was younger and able to hold down a job cleaning the grounds at Harrisburg Area Community College.

"When he started working there they were allowed to smoke," said Donald's sister Trish Giordano of Lower Paxton Twp. "His job was to patrol the grounds and pick up cigarette butts in the rain, snow and sleet. Then when they banned cigarettes, he went around picking up trash and soda cans" until his health issues made it so he could no longer work.

She said it was heartbreaking for her mother to learn that the money Donald had earned on his own was now gone.

"Her first thought was he wouldn't take his money. Oh no, he wouldn't," Giordano said. "It was a crusher when she realized he did."

Attempts were made to reach all of the victims. Some did not respond to messages left at their home. Some couldn't be located. Others simply declined comment or had little they wanted to say.

"I'd rather not talk about it. It just upsets me," said Catherine Miller, an elderly woman who lives in Allegheny County who lost almost a quarter million dollars in the scam. "Trusted attorney, used him for years, and then he throws your money away."

Getting their money back

Because lawyers are involved and they charge fees, Mottern's victims know they stand no chance of getting all of their money back. But many hold out hope of recovering some of it – if not in their lifetime, at least in their heirs'.

Aside from the pending lawsuit against Ameriprise and the two local banks, **there is a pending claim filed with the Financial Industry Regulatory Authority's Office of Dispute Resolution** to try to recover money from Ameriprise.

An arbitration hearing on that claim is scheduled to begin Aug. 22, which if successful, could help to partially cover victims' losses.

Then there's the the **Pennsylvania Lawyers Fund for Client Security**, a fund that exists to provide financial relief to individuals who file claims alleging a financial loss as a result of actions by a Pennsylvania licensed lawyer. It is funded through \$45 of the \$200 lawyers pay annually to keep their law license active in Pennsylvania.

Like the court system, it too is a slow process and claims are reviewed in the order in which they are received.

The fund caps each claimant's award at \$100,000 and has a \$1 million aggregate cap on claims made against any single lawyer, although there is a provision that allows the fund's board to ask the Supreme Court to waive that cap for cases involving catastrophic losses if the fund's resources allow.

Such a waiver was recently granted in case involving former Gettysburg lawyer **Wendy Weikal-Beauchat**, who **pleaded guilty to stealing more than \$6.3 million** from clients. She is serving a 15-year prison sentence. Next month, the fund will begin paying out over two fiscal years a total of \$3.4 million to Weikal-Beauchat's 31 victims whose claims were approved, said the fund's executive director Kathryn Peifer Morgan.

The Mottern victims' claims are the next ones to be evaluated that could require a court waiver to the fund's \$1 million aggregate cap, she said.

"The board is going to be looking at that at our September board meeting and evaluating when would be the appropriate time to start addressing it, given our financial resources," she said.

Fifty claims have been filed by Mottern victims alleging a combined loss of \$14.9 million. Peifer Morgan said some of the claims

are seeking reimbursement of the fictitious interest that Mottern claimed their original investment had earned, but the fund is not permitted to cover that part of a loss.

Given the \$100,000 cap on an individual victim's award and assuming the \$1 million cap is waived, Peifer Morgan estimates combined, the fund's maximum payout to Mottern victims would be a little over \$4 million.

Despite the large claims that victims of lawyers' misdeeds have filed with the fund seeking relief in recent years, Peifer Morgan said the number of lawyers stealing clients' money that come to the fund's attention represent less than 1 percent of all lawyers admitted to the Pennsylvania Bar.

Moreover, she said the number of victims' claims the fund received in the fiscal year that ended on June 30 is down from the prior year "so that's encouraging."

But to many of Mottern's victims, the experience they had with an attorney they entrusted with their nest eggs left a sour taste in their mouth when it comes to lawyers.

Felty is one of them.

"I don't trust lawyers. I don't trust trusts. I don't trust anybody that wants to invest my money," he said.

Swartz, on the other hand, said she does have faith in the lawyers who are trying to recover money that she and other victims lost in Mottern's scam.

As for Mottern, she said, "I don't have any good thoughts about him."

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