

1. Appellant notification of method of preparation of appendix:

Appellant requests to file a joint appendix under Eighth Circuit Rule 30(A).

2. Designation of the Record on Appeal:

The record on appeal consists of certified copies of docket items 15, 30-31, 42-44, and 46-57, and the transcript of proceedings dated May 17, 2013.

3. Statement of Issues:

1. Whether a complaint sufficiently pleads under Fed. R. Civ. P. 8 and 12 the “knowledge” prong of a claim under Minnesota law that a bank aided-and-abetted the torts of a proven Ponzi scheme, by reciting allegations that the bank “had actual knowledge of the fraud,” and by reciting particularized allegations of actions and statements of the bank probative of knowledge of the fraud — including falsifying account-opening records, falsifying cashier’s check payor information in a manner that lent credibility to the scheme, giving detection-avoidance advice to the fraudsters, and other acts where the bank created (not just “ignored”) red flags — and further in view of Fed. R. Civ. P. 9, under which allegations of knowledge may be averred generally.

2. Whether a complaint sufficiently pleads under Fed. R. Civ. P. 8 and 12 the “substantial assistance” prong of a claim under Minnesota law that a bank aided-and-abetted the torts of a proven Ponzi scheme, by reciting allegations that the bank did more than just ignore red flags and suspicious activity, but also took affirmative actions to enable the fraud — such as opening accounts with known-false information in violation of banking regulations, falsifying bank-as-payor cashier’s checks in a way that lent credibility to the scheme, advising the fraudsters on how to avoid detection of the fraud, allowing one fraudster to access

and withdraw from an account that he did not own or have permission to access, allowing one fraudster to walk out of a branch with a box filled with \$600,000 in cash proceeds of the fraud after such withdrawal had already been flagged as suspicious, and several dozen other particularized allegations of bank actions – but for which the fraud could not have occurred.

3. Whether the district court erred in dismissing an aiding-and-abetting complaint with prejudice without first allowing leave to amend to address the perceived pleading insufficiencies.

Dated: November 14, 2013

Respectfully Submitted,

/s/Robert P. Greenspoon
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CERTIFICATE OF SERVICE

I hereby certify that on November 14, 2013, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Eighth Circuit by using the CM/ECF system. Participants in the case who are registered for CM/ECF users will be served by the CM/ECF system.

/s/Robert P. Greenspoon