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LOCAL

BLACK'S BANK OFFERS SETTLEMENT OF \$51 MILLION INVESTORS COULD RECOUP 77 OF  
THEIR LOSSES

MIKE BUCSKO AND ELEANOR CHUTE,, POST-GAZETTE STAFF WRITERS

Keystone Financial Inc. of Harrisburg yesterday offered to pay \$51 million to nearly four dozen school districts and a handful of municipalities to help them recoup the losses they suffered in investments managed by **John Gardner Black** of Blair County.

The 50 public investors, mostly rural Pennsylvania school districts, lost almost half what they gave Black in what's been called the state's largest municipal investment fraud. Keystone is the parent of the former **Mid-State Bank & Trust Co.**, Black's bank.

Under the proposed settlement, which needs to be approved by the plaintiffs and Blair County Common Pleas Court Judge Hiram A. Carpenter III, the investors will receive about 77 percent of their outstanding losses before deductions for legal fees.

More than half of the proposed settlement pot, \$30 million, would go to settle a class action lawsuit in Blair County Common Pleas Court. The legal expenses in that case will be about \$4.5 million, said Richard Finberg, of Malakoff Doyle & Finberg in Pittsburgh, one of the attorneys.

The remaining \$21 million would settle lawsuits filed in Blair County by three separate school districts and one remaining lawsuit filed by four school districts. Two of the plaintiffs in those lawsuits, Black's own Tyrone Area School District and the Northern Lebanon School District, suffered the highest investment losses. Michael Betts, the O' Hara attorney who represents the two districts, could not be reached yesterday for comment about whether he will accept Keystone Financial's offer.

Attorneys for the school districts in the class action case, as well as officials in the districts and municipalities, were clearly pleased with Keystone Financial's offer.

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"Is fantastic too strong a word?" said attorney Richard "Chip"

Nelson of Cohen & Grigsby, the second Pittsburgh law firm that represented plaintiffs in the class action lawsuit. "It's a great result, given the nature of the litigation. We're pleased that the bank assumed its fair share of the responsibility for the disaster which occurred a few years ago. Black used his local ~~Mid-State~~ Bank branch in Tyrone to maintain the investment accounts of his companies, Devon Capital Management Inc. and Financial Management Sciences Inc. Black pioneered the concept of bundling municipal investors to ensure higher investment returns, and his companies were among the most well-known and respected investment firms in the state.

But the prestige disappeared when the U.S. Securities and Exchange Commission turned up a \$71 million hole in Black's books during a surprise audit in August 1997. The loss was later revised downward to \$69.5 million after accountants and lawyers for former Gov. Dick Thornburgh, the court-appointed trustee in the SEC case, examined Black's financial records.

Several school districts filed federal and state lawsuits against ~~Mid-State~~ Bank after the SEC closed down Black's businesses with a civil lawsuit in September 1997. Black, 55, of Warriors Mark, was named in June in a 134-count federal indictment that accused him of mailing investors false statements, inflating the value of securities to hide losses and failing to disclose investment risks.

He is awaiting trial next year in U.S. District Court in Pittsburgh.

The school districts and other investors claimed that ~~Mid-State~~ participated in Black's scheme by failing to disclose the fraud before it was uncovered by the SEC.

Representatives of several of the investors said yesterday that they felt vindicated because they believed they were innocent victims who were duped and lost their investments.

"If somebody is walking down the street and is mugged and robbed and money is taken, do you blame the mugger or the victim?" asked Christopher Lochner, manager of Hampton Township, which lost about half of its \$2.2 million investment. "We felt we were the victim. We had done everything to protect ourselves."

The investors were assured by Black that their investments, as required by state law, were fully collateralized. But the SEC accused Black of operating a pyramid-type scheme in which he shuffled money from new investor accounts to pay returns to older accounts. Black,

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according to the indictment, hid the financial mismanagement by inflating the value of a security and by providing false financial statements to investors.

The group of 50 investors who are part of the Keystone Financial settlement offer were part of an investment pool that Black improperly used to pay off other investors.

Those pooled investors targeted ~~Mid-State~~ Bank and its parent, Keystone Financial, for lawsuits because Black maintained his business accounts at the ~~Mid-State~~ branch around the corner from his office in Tyrone.

Keystone Financial Inc., the fourth largest financial institution in Pennsylvania with \$7 billion in assets, decided to make the settlement offer because "we think it's in everybody's best interests to move on," spokeswoman Elizabeth Braungard said.

The financial company, which also operates mortgage and brokerage businesses, in October changed the name of its former ~~Mid-State~~ Banks to Keystone Financial Bank N.A.

When added to a previous payout in the SEC civil lawsuit, the Keystone Financial settlement would provide the school districts and four municipalities that lost the most about 89 percent of their total initial investment.

The trial in the Keystone Financial lawsuits was scheduled to begin in February.

Finberg credited the tenacity and diligence of superintendents in the Bald Eagle Area School District and the South Butler County School District for the success in the settlement from Keystone Financial.

"We were planning on pursuing this as far as we could go with it," said Superintendent Dan Fisher of Bald Eagle, the rural Centre County district that initially lost about 47 percent of its \$3.8 million investment.

Bald Eagle will receive an additional \$1.2 million to \$1.3 million from the settlement, Fisher said.

In addition to the Keystone Financial settlement, the investors are seeking to recoup investment losses from other lawsuits and from \$3.7 million that remains in Black's business estate, which is overseen by a trustee in U.S. Bankruptcy Court.

The investors also have lawsuits in Blair County against the

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investment firm Hefren-Tillotson Inc. and national law firm Kutak Rock Inc. The plaintiffs charge Hefren-Tillotson was negligent when it allowed Black to trade in securities with prices he set himself and that Kutak Rock failed to provide proper legal guardianship when it helped Black set up his companies.

In addition, bankruptcy trustee Carl Izzo Jr. last week filed a separate lawsuit against Kutak Rock for its relationship with Black and his companies.

#### CHRONOLOGY OF FINANCIER'S DOWNFALL

\* August 1997 - Examiners from the U.S. Securities and Exchange Commission perform a surprise audit.

\* September 1997 -

The SEC audit uncovers a \$71 million hole in the company's financial records. An SEC suit accuses Black of losing millions of dollars in school district and municipal investments.

\* April 1998 -

U.S. District Judge Donetta W. Ambrose orders Black to pay back \$3.95 million to investors and a \$500,000 fine.

\* November 1998 -

Black begins paying off his debt in \$1,500 monthly payments.

\* December 1998 -

The 3rd U.S. Circuit Court of Appeals rules that the SEC acted improperly by freezing Black's assets.

\* February 1999 -

Ambrose dismisses a lawsuit filed by two school districts against ~~Mid-State~~ Bank & Trust, Keystone Financial Inc. and four bank officers. The districts maintained that, under the federal RICO law (Racketeer Influenced and Corrupt Organizations Act), they could obtain triple damages.

\* April 1999 -

A Blair County judge rules that close to 50 plaintiffs - mostly school districts - could join in a single lawsuit charging that ~~Mid-State~~ Bank & Trust was part of a securities swindle that cost Pennsylvania schools \$70 million.

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\* June 1999 -

A 134-count indictment is returned against Black, charging that he mailed investors false statements, inflated securities values, failed to disclose investment risks and other charges.

\* August 1999 -

Black's trial is set to begin in March 2000.

\* December 1999 -

A tentative settlement is announced in which Keystone Financial agrees to pay more than \$30 million to 43 school districts and municipalities. In addition, Keystone Financial offers \$21 million to settle with seven other school districts.

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PHOTO; Caption: PHOTO: DARRELL SAPP/POST-GAZETTE: **JOHN GARDNER BLACK**

---- INDEX REFERENCES ----

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