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## Best Buy Hit With Ponzi Scheme Suit Over Sham Investments

By **Bill Wichert**

Law360 (August 3, 2021, 8:45 PM EDT) -- Best Buy was hit Tuesday with a New Jersey federal lawsuit alleging company employees took part in tricking investors into pumping more than \$2.6 million into sham companies involved in a Ponzi scheme under the ruse they were providing delivery and installation services for the retail giant.

Rafi Gibly and other plaintiffs made investments based on employees' misrepresentations to him during private guided tours of a Best Buy distribution center that it had contracted with businesses run by Yevgeny Shvartsshteyn and Arsen Lusher, who ultimately admitted to Gibly that "the entire business venture had been a fraud," according to the complaint.

"They and their companies were not making any pickups and deliveries on behalf of Best Buy, and the entire scheme was designed solely to enrich Shvartsshteyn and Lusher, who tried to bring in new investors with enough money to pay off old investors," the complaint says. "Put simply, the entire 'business' had been a classic Ponzi scheme."

The complaint — which names Best Buy Co. Inc. and a subsidiary as defendants — asserts that "Best Buy and certain of its employees received kickbacks and other payments for making their material misrepresentations to Gibly, which they reasonably expected plaintiffs to rely upon in evaluating and deciding to invest with Shvartsshteyn and Lusher."

Shvartsshteyn began seeking investments from Gibly in November 2018 based on claims that Best Buy and similar businesses contracted with him and Lusher for home delivery and installation services, according to the complaint. Shvartsshteyn and Lusher indicated that, if Gibly put up \$200,000, they could buy five more delivery trucks, the complaint says.

Over the next several months, Gibly entered into agreements with Shvartsshteyn and Lusher and one of their alleged entities for investments totaling \$750,000 in exchange for certain returns, the complaint says.

In an attempt to convince Gibly to both increase his stake and recommend the investment to others, Shvartsshteyn provided him with allegedly bogus documents pertaining to the Best Buy arrangement, and he and Lusher invited Gibly to a tour of the distribution center in Piscataway, New Jersey, the complaint says.

During that March 11, 2020, tour, a Best Buy manager — who said he was the facility's supervisor — "repeatedly referred to Shvartsshteyn's and Lusher's delivery companies, and specifically represented that their trucks picked up orders early in the morning and returned to the distribution center late in the afternoon on a daily basis," the complaint says.

The manager also said he expected Best Buy home deliveries to surge in the months ahead as customers stayed home due to the COVID-19 pandemic, meaning greater deliveries for Shvartsshteyn's and Lusher's businesses and more profits for investors like Gibly, according to the complaint.

Based on such representations, Gibly invested another \$2.25 million through his business, RG7 Investments LLC, into two other companies purportedly run by Shvartsshteyn and Lusher, and also introduced Shvartsshteyn to the other investors, the complaint says.

After Gibly had shared his experience at the distribution center, two of the investors and fellow plaintiffs, Christian Vieri and Yosef Lipkin, shelled out \$450,000 and \$225,000, respectively, for different entities allegedly controlled by Shvartsshteyn and Lusher, the complaint says.

Looking for greater investments, Shvartsshteyn and Lusher again gave Gibly allegedly fraudulent documents and invited him to another tour of the distribution center on Dec. 7, the complaint says.

During that tour, a different Best Buy supervisor "referred to 'your orders' and schedules for delivery and installation in conversation with Shvartsshteyn and Lusher," the complaint says.

"This representation reinforced to Gibly that Shvartsshteyn and Lusher were in the business of delivering products on behalf of Best Buy and that they were both familiar with the Best Buy supervisor," according to the complaint.

As during the first tour, the supervisor projected an increase in the demand for delivery services provided by Shvartsshteyn's and Lusher's companies, the complaint says. Gibly later shared the specifics of his visit with the other plaintiffs, the complaint says.

In light of the representations by Best Buy employees during the two tours, another plaintiff, Anthony Nougues Guitera, invested \$225,000 through his business, ANG Operations Inc., in an entity purportedly controlled by Shvartsshteyn and Lusher, the complaint says.

But starting in December, "payments due under the investment agreements were delayed and then ceased entirely," the complaint says. The following month, Shvartsshteyn and Lusher called Gibly and admitted that the entire venture had been a sham, the complaint says.

"Plaintiffs then realized that the Best Buy employees who led Gibly through the tours of the Best Buy facility had participated in the fraud," according to the complaint.

The complaint alleges that Gibly and RG7 Investments are owed at least \$1.9 million, while Vieri, Lipkin and Guitera and ANG Operations are owed amounts of at least \$300,000, \$225,000 and \$225,000, respectively.

Terrence A. Oved of Oved & Oved LLP, representing the plaintiffs, told Law360 on Tuesday, "We seek to hold Best Buy accountable for its alleged participation in a fraudulent scheme that induced our clients to invest millions of dollars in sham businesses that purported to provide delivery and installation services to Best Buy."

Best Buy representatives did not immediately respond to a request for comment Tuesday.

The plaintiffs are represented by Terrence A. Oved, Aaron J. Solomon, Glen Lenihan and Andrew L. Kincaid of Oved & Oved LLP.

Counsel information for Best Buy was not immediately available.

The case is Rafi Gibly et al. v. Best Buy Co. Inc. et al., case number 2:21-cv-14531, in the U.S. District Court for the District of New Jersey.

--Editing by Amy Rowe.