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Ex-Napoli Bern Receiver's Firm Says It Still Hasn't Been Paid, 4 Years on

"Were they lying then, or are they lying now?" The firm that represented a receiver for plaintiffs firm Napoli Bern says it still hasn't gotten its \$151,000 in fees and is being given the run-around in its search for assets.

By Jack Newsham | January 08, 2020



Paul Napoli, founder of Napoli Bern Ripka Shkolnik, and Ira Warshawsky, receiver and former judge

A law firm that represented the temporary receiver for Napoli Bern said in a Monday court filing that it still hasn't been paid \$151,000 in legal fees that were approved four years ago, protesting that Paul Napoli and Marc Bern have been stonewalling in its effort to get the money.

Ruskin Moscou Faltischek said in a letter (<https://www.documentcloud.org/documents/6603513-159576-2014-Paul-J-Napoli-v-Marc-J-Bern-LETTER.html>) to Mark Zauderer, a special referee who is sorting out disputes related to the breakup of the asbestos plaintiffs firm, that Napoli and Bern have taken the "unbelievable" line that their 11 partnerships that were supposed to pay its fees don't even have bank accounts. The Ruskin firm wants to be heard at an upcoming hearing about the debt.

Michael Schoenberg, who is of counsel at the Ruskin firm, said in the letter that Napoli and Bern have asserted baseless objections to his effort to gather information and collect on a judgment that the Ruskin firm obtained against 11 Napoli Bern entities last year. The Ruskin firm represented temporary receiver Ira Warshawsky, who was initially appointed in 2014 (<https://www.law.com/newyorklawjournal/almID/1202676822783/receiver-appointed-to-forestall-crisis-at-napoli-bern/>) to oversee firm finances.

Schoenberg attached responses to the firm's information subpoenas in which Napoli said one firm did not have a bank account or any assets to speak of and Bern said he couldn't help because Napoli had the relevant records.

Schoenberg wrote that those responses contradicted what Napoli and Bern said about the 11 partnerships when they agreed in 2015 to use their revenues to pay the Ruskin firm. Fifteen percent of the firms' fees were supposed to go into a "lockbox" that would be used to pay the Ruskin firm but not a cent has flowed in since then, the letter said.

"At best, Messrs. Napoli's and Bern's responses to the information subpoenas are misleading and designed to frustrate our enforcement of the judgment, as the partnerships undoubtedly represent clients in active litigations for which they have or will receive fees," Schoenberg wrote, noting what Napoli and Bern had allegedly said in 2015. "To paraphrase an oft-heard inquiry, 'were they lying then, or are they lying now?'"

The Ruskin firm's effort to get fees owed for work it did years ago for Warshawsky, which it said have mounted to \$160,000 with interest, come in the wake of another significant development in litigation related to the breakup of Napoli Bern. Last month, a federal jury in Maryland returned a \$1.5 million verdict (<https://www.law.com/newyorklawjournal/2019/12/26/jury-ny-firm-on-hook->

for-1-5m-in-asbestos-litigation-fees/) against Napoli Bern and several firms affiliated with Napoli in favor of the Keyes Law Firm, which claimed it hadn't been paid its share of fees for asbestos cases worked together.

Luke Nikas, a Quinn Emanuel Urquhart & Sullivan partner who represents Napoli, disputed the Ruskin firm's characterizations of his client's actions and said Napoli Bern had been steadily paying its creditors, with more than 90% of the firm's original debt paid down.

"The information requests that were sent to Napoli were substantially overbroad," he said. "Napoli objected to them, he answered the requests that were properly posed by the firm, and ultimately we will contest the propriety of the information subpoenas."

Regarding the Ruskin firm's allegations that Napoli had been lying in 2015 or was lying now, Nikas said clients simply chose to take their business to different firms associated with Napoli. He said a share of the proceeds from those cases were being used to pay down Napoli Bern's debt.

Cliff Robert of Robert & Robert, an attorney for Bern, said in an email that "Marc Bern has always acted honorably and will continue to do so."

Salvatore Badala, the general counsel at Napoli Shkolnik, didn't respond to a voice message seeking comment.

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