



## BACKGROUND

- Hamstreet & Associates is the Receiver. The Oregon and Washington investors are dealing with the same Ponzi scheme and the same set of facts. One of the purposes of a Receivership is to have a single party responsible for the administration of the estate and payment of the claims. If every investor hired their own lawyer, there would be higher costs and confusion. The law gives the Receiver the power to act on behalf of all investors but requires that the Receiver treat all investors the same way and not play favorites.
- The Receiver worked with the Miller Nash law firm to obtain a \$19 million settlement from the banks for both Washington and Oregon investors. This settlement was the fruit of years of hard work and significant investment of funds from the Receivership estate. The settlement has been approved by Judge Gregerson overseeing the Receivership and, if the settlement moves forward, then all investors will get back their original investment plus more.
- OR 7 lawsuit: Oregon attorneys Mike Esler and Chris Kayser represent seven Oregon investors. Additionally, Esler and Kayser would like to represent all of the Oregon investors, but they do not represent them yet. The OR 7 also have a lawsuit against the banks in Oregon federal court. The seven investors are: Diane Anderson, Bonnie Buckley, Carl and Kirby Dyess, Peter Koubeck, Michael Peterson, and Ed Wilson.
- Davis Wright Tremaine (DWT) lawsuit: The OR 7 included DWT in their Oregon federal lawsuit too. DWT negotiated a \$4.5 million settlement for Oregon investors (finalized, but funds not yet distributed). This settlement has no connection to the Receiver's settlement, except that the Receiver required Pacific Premier Bank to drop its opposition to it as a condition of settlement.

## SETTLEMENT FAQs

### Why did the Receiver settle instead of going to trial?

The settlement with the banks gives investors cash now instead of facing the risks, delays, and uncertainties of trial. Even if the Receiver won at trial, the appeal process that would come after would be lengthy and expensive. Instead, this settlement is a “sure thing” that pays off all MIMO claims and follows Judge Gregerson’s recommendation of mediated settlement.

We believe that the settlement will also result in the most money for investors. The banks can offer more settlement money to investors because the amounts available from their insurance and other funds have not been spent on defense at trial. The nature of the global settlement allows the banks to make their highest offers.

### Why isn’t the Receiver’s \$19 million settlement moving forward?

The settlement is moving forward. The Receiver has already completed the first step by getting the Washington court to approve the deal. The OR 7 then filed an appeal that is preventing the Receiver’s \$19 million settlement from being finalized. If the OR 7 attorneys are successful in their appeal, then the \$19 million settlement will be terminated and the Receiver would prepare to go to trial against the banks, which would lead to more delays, more expense, and more risk. If the OR 7’s appeal is unsuccessful, then the settlement will continue to move forward.

### Who are the OR 7 and what do they want?

The OR 7 (see above) includes seven Oregon investors working with attorneys Esler and Kayser who have brought civil litigation in Oregon against the banks. They are also appealing the Receiver’s \$19 million settlement, which is blocking it from moving forward. Esler and Kayser claim they can obtain higher recoveries for their clients in Oregon (not Washington), though there are no guarantees in a trial.

### When can I get my money? And how much will I get?

The Receiver’s \$19 million settlement would return 100% of investors’ original investment plus some additional money. If the settlement does not encounter obstacles, then distribution of funds to investors could begin as early as January 2024. Currently, the OR 7 appeal is the only obstacle blocking the \$19 million settlement from moving forward. If the settlement is terminated, then going to trial could take years with no guaranteed outcome.

### Does the Receiver (Hamstreet & Associates) make money regardless of whether the settlement moves forward?

The Receiver, along with the other professionals, works on an hourly basis and will not receive a percentage of the \$19 million settlement.

### What is the “break-up fee” in the settlement agreement?

If the settlement is terminated, then (subject to certain limitations) the banks will pay a combined \$500,000 to the Receivership estate as a “break-up fee”. This payment will fund a portion of the additional legal expense to restart preparations for the trial that was postponed while pursuing the settlement. Going to trial would not be necessary if the \$19 million settlement already negotiated on behalf of all investors moves forward unimpeded.

**Investors report being told they will get nothing while Oregon investors get paid in full. Is this true?**

This is false. The \$19 million settlement negotiated by the Receiver will allow all investors in Oregon and Washington to get back 100% of their original investment plus more. If the settlement continues to be blocked, then the Receiver and the OR 7 will have to go to trial against the banks. However, it is impossible to predict the outcome of a trial, either the Receiver's case or the OR 7 case. Going to trial could take years with no guaranteed outcome.

**Can I support the settlement for \$19 million with the banks AND support the OR 7 class action?**

No. A key term of the \$19 million settlement is that the OR 7's case must end.

**Can I receive payment from the Davis Wright Tremaine settlement and still support the Receiver's \$19 million settlement with the banks?**

Yes.

**What communications have occurred between the OR 7 attorneys and the Receiver's team?**

The Receiver's team was in communication with the OR 7's attorneys for years and provided them with information, documents, and research that the Receiver had collected and created to help them with their case against Davis Wright Tremaine.

**Why didn't you invite the OR 7 attorneys to the settlement mediations with the banks?**

We did. Prior attempts at mediations in 2020 and 2021 that involved the OR 7 attorneys and the banks failed. The Receiver's case moved forward much more quickly, and the OR 7 case was years behind. Only the Receiver and the banks were in the courtroom when the judge advised mediation. The Receiver was able to negotiate a \$19 million settlement that would get money back to the investors more quickly.

**Why don't you call the OR 7 attorneys and make a deal?**

We tried. We had a call with them on June 12, 2023, and asked them to propose a resolution. We still have not heard back from them. However, at this point the Receiver has spent significant funds to reach this settlement on behalf of all investors. We do not want to show favoritism to one group of investors over another because they have engaged attorneys on a contingency basis.

**Whose idea was it to sue the banks? Hamstreet or Esler and Kayser?**

In a legal situation such as this, it is standard practice to investigate and, if appropriate, to bring litigation claims against banks in order to help reimburse investors. It is not a unique idea.

**Why not renegotiate with the banks and include the OR 7 attorneys?**

We fought hard to get a \$19 million settlement that would reimburse all investors over 100% of their original investment. Reopening negotiations or going to trial creates uncertainty, i.e., we don't know if we could get a better deal and we don't know how long it would take. The current settlement gets money back to all investors faster.

[Why doesn't the Receiver just offer the OR 7 class action group a larger portion of the \\$19 million settlement? Or offer some of the money to the class action attorneys to resolve this?](#)

That would be unfair to all of the investors. The basis of the Receivership is equitable treatment to all investors and diverting more money to some means others get less. Similarly, it is not ethical to “pay off” the OR 7 attorneys.

This case has been several years of hard work in the making and has been expensive. The Receiver has worked for years on the analysis of the various investment pools to build a strong case against the banks—this included over 700,000 pages of written discovery and over 20 depositions. The Receiver shared much of its research and work with the OR 7 lawyers for their case against Davis Wright Tremaine and the banks. All investors paid those costs. It would not be fair to put settlement money in the OR 7's lawyers' pockets when it is rightfully due to all investors.

[Can we ignore the OR 7 and the rest of us move forward?](#)

No. They have exercised their legal right to appeal thereby blocking the \$19 million settlement until that appeal is resolved. If they succeed in their appeal, then we will prepare for trial and continue to advocate on behalf of all investors. Going to trial could take years with no guaranteed outcome.

[What happens if the OR 7 refuse to drop their suit?](#)

By continuing their suit in Oregon and attempting to attack the settlement outside the proper appeals process in Washington, the OR 7 are violating a court order. The Receiver has asked the Washington court to enforce its order by filing a motion for contempt against the OR 7. The hearing for that motion is currently scheduled for November 9, 2023, but it may be postponed to early December.

[I heard the OR 7 asked the Oregon federal court to stop the settlement. What will happen then?](#)

The OR 7 did attempt to attack the settlement in the Oregon federal court by asking the court to let them supplement their complaint to include an action against the Receiver. The judge in that case denied the OR 7's request to supplement their complaint on November 1, 2023.