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Attorney: Halt Palm Beach County case for Rothstein partner; federal charges looming

By Peter Franceschina

Sun-Sentinel Staff Writer

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One of the lawyers who goes way back with Ponzi schemer Scott Rothstein is a target of a federal investigation and expects to be indicted, the former partner's attorney told a judge during a Friday court hearing.

Howard Kusnick, who first practiced years ago with Rothstein in their small firm in Plantation and later joined the Rothstein Rosenfeldt Adler law firm in downtown Fort Lauderdale, is a target of the federal investigation that brought down Rothstein, said Kusnick's civil attorney, Rachel Kelman.

The revelation came during a bid to put a malpractice suit against Kusnick on hold. Kusnick and other members of Rothstein's firm are being sued by auto magnate Ed Morse.

One of the criminal allegations that Rothstein admitted to in January was defrauding Ed and Carol Morse of \$57 million, using fictional court orders involving a Palm Beach County case the couple had filed against a kitchen designer.

Attorney Bill Scherer, who represents a group of investors, told the judge that based on bankruptcy records, Rothstein stole about \$168 million during the five-year Ponzi scheme.

The Morses' suit alleges five of Rothstein's former law partners mishandled four separate civil cases on their behalf.

Kusnick's attorney, Kelman, asked Broward Circuit Judge Jeffrey Streitfeld to put the case on hold because Kusnick wanted to be able to defend against the suit but couldn't do so without compromising his Fifth Amendment right against self-incrimination. If Kusnick refuses to be deposed in the case, the Morses could potentially obtain a default judgment against him.

As part of her argument, Kelman told the judge that she learned Thursday that Kusnick is a target of the investigation, and that Kusnick expects to be indicted.

"It is a concrete concern," said Kelman, who declined to elaborate after the hearing.

"That's so distressing," said Streitfeld, but the judge refused to halt the case.

Kusnick did not attend the hearing and declined to comment when reached by phone. He and Rothstein formed their Plantation firm in 1991 and dissolved it seven years later, corporation records show.

While working for Rothstein Rosenfeldt Adler in June 2009, the Morses allege Kusnick secretly worked out a \$310,000 settlement paid by the Morses for companies that had done work for the Morses. The suit alleges that was a breach of fiduciary duty by Kusnick and Rothstein Rosenfeldt Adler.

Rothstein's firm imploded last November as Rothstein's \$1.4 billion Ponzi scheme came to light. Rothstein, 47, has pleaded guilty to five federal felonies and faces up to 100 years in prison at his June 9 sentencing. Last week, Rothstein's chief operation officer, Debra Villegas, was charged with a money laundering count punishable by up to 10 years in prison.