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Southern Exposure

How Two Women Helped Unravel A Lending Empire

A Retired Maid's Questions About Her ATM Card Led Lawyer to Georgia Scandal

Investors' Missing \$30 Million

BY CARRICK MOLLENKAMP

UNION POINT, Ga. -- For decades, Ben Stewart Jr. ran this fading mill town. He was president of the Farmers Bank, owned much of the business district and served as mayor for a quarter century, defeating his own brother by 14 votes in one election.

In the 1990s, he built a lending company that made tens of thousands of small loans across the Southeast and Midwest and paid fat returns to hundreds of local investors who poured roughly \$30 million into the enterprise. He built a personal fortune valued at millions of dollars that paid for a Southern gentry life of hunting, college-football box seats, and vacation homes



Elsie Williams

in the mountains and on the coast.

But when Elsie Williams, a 68-year-old retired hotel maid, walked into the free legal-aid office in downtown Atlanta three years ago, Mr. Stewart's life and empire began to unravel.

Ms. Williams was one of 69,000 borrowers who obtained loans between 1998 and 2003 from Mr. Stewart's 60-outlet Stewart Finance Co., a lender specializing in customers who have had credit or no credit history at all. Thousands of other small lenders market their services to the poor, but Stewart had an unusual angle: It took advantage of a federal push to persuade recipients of Social Security and other government aid to receive their payments via direct deposit. That gave it access to scores of elderly and African-American clients

who had never had a bank account before.

The small-scale loans and the use of unregistered securities sold in one community allowed Stewart Finance to fly under the radar of regulators as the company tapped into this new client base. The company charged exorbitant interest rates and tacked on high fees to the accounts, often in violation of federal law, federal and state regulators allege. It also specialized, investigators say, in cajoling or tricking borrowers into buying questionable life-insurance policies and car-club



Adrienne Ashby

memberships of little or no value.

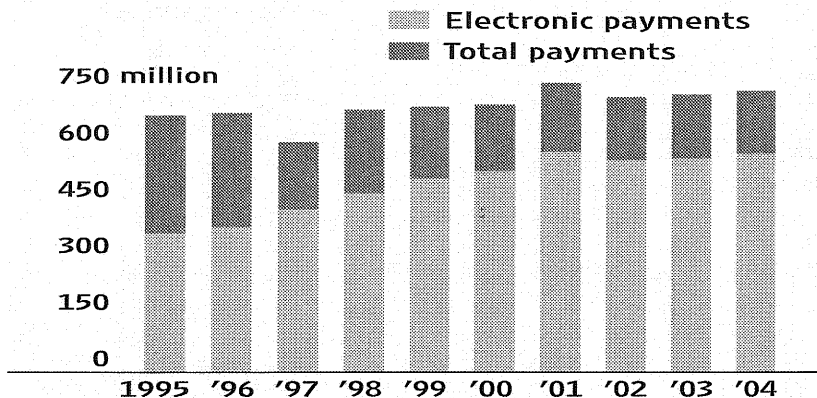
Nicholas Lotito, an Atlanta criminal-defense attorney who represented Mr. Stewart, says Mr. Stewart maintained his innocence throughout the court proceedings that followed. Mr. Stewart acted in good faith and made attempts to maintain the profitability of his company, Mr. Lotito says.

Adrienne Ashby, a legal-aid lawyer in downtown Atlanta, wasn't sure where to begin when Ms. Williams walked into her threadbare office one morning in April 2001. Ms. Williams wanted help figuring out what was wrong with her ATM card.

That winter, Ms. Williams had taken out a loan for \$204.84 from Stewart Finance to buy a couch for her publicly subsidized apartment. To obtain the loan, Ms. Williams agreed to have her \$530 monthly government-aid check deposited directly into a new account set

Direct Deposit

Government benefit payments are increasingly being made electronically, rather than by check.



Note: Fiscal year ended Sept. 30

Source: Treasury Department

up for her by Stewart. Ms. Williams didn't understand why she couldn't withdraw all of her Supplemental Security Income funds with the ATM card the bank sent her.

Ms. Ashby, a then-28-year-old graduate of the University of Virginia law school, had recently left a six-figure salary as an associate in a private law firm to become a \$39,000-a-year legal-aid lawyer. "I wasn't doing what I was supposed to be doing," says Ms. Ashby, who grew up in a Norfolk, Va., public-housing complex, the daughter of a single, teenage mother. Her conscience, she says, "was picking at me."

With only Ms. Williams's bank statements in hand, Ms. Ashby had little to go on. Ms. Williams didn't understand the terms of her loan. It wasn't clear that any laws had been broken. The problem with the ATM, it turned out, was simply that Ms. Williams, unfamiliar with banks, didn't realize that there was a limit to how much she could withdraw in one day.

But this was one of Ms. Ashby's first legal-aid cases, so she decided to dig in.

Seventy miles east of Atlanta, among the pines and hardwoods of rural Georgia, Union Point is a faint image of itself in the heyday of the Southern textile industry. Incorporated in 1904 and named for the intersection of three early Georgia railroads, the town began to fade as the industry lost business to cheaper foreign imports. Mr. Stewart's businesses -- Stewart Finance's two-story brick office and a pawn shop -- dominated a small downtown strip. Today, the population of 1,600 is evenly divided between whites and African-Americans. One of the largest employers in town, the Chipman Union Inc. hosiery mill, closed in 2001, laying off hundreds of workers.

Amid the town's steady descent, Mr. Stewart increasingly seemed to offer the only hope. As his Stewart Finance business grew, hundreds of residents of the town and the surrounding county began investing their savings in the company's unregistered securities. In 2002, Stewart Finance's parent bought the town's shuttered hosiery mill and announced plans to reopen it and hire 150 people. It would never make good on that promise.

Mr. Stewart embraced his local investors like close friends, hosting cocktail parties and offering free Atlanta Braves tickets. When 80-year-old Mary Callaway, who had known Mr. Stewart from the time he was a toddler, was diagnosed with cancer in 1998, Mr.

Stewart took her to the hospital. "We've been dear friends of his," says Mrs. Callaway, who says she and her husband lost about \$174,000, their life savings, as investors with Mr. Stewart. "He had a generous nature and I think he loved his community."

In 1996, Mr. Stewart began a newsletter, "The Stewart Lender," that was filled with bon mots, employee dictums ("Eating at your workstation is a violation of company policy") and updates on the loan business. "I am very pleased to see the number of investors grow each year," Mr. Stewart wrote in 2001 after a cocktail reception for his backers. "We have big plans for the future and a successful investor program is certainly part of that."

Beginning in 1996, Lee Sweetapple, the retired former owner of a pipe-making company, invested a total of \$700,000 in Stewart securities, some of which promised an 11% interest rate. Angela Deering, daughter of a retired Methodist minister in Union Point, invested the \$300,000 she and her husband earned after restoring and selling a stately Southern home.

Nearly 900 individual investors, almost all of them locals, put their money into Stewart Finance securities and promissory notes, the latter of which were nothing more than Mr. Stewart's pledge to repay the investor. The Stewart securities weren't registered with the Securities and Exchange Commission as required by law once the company began to operate across state lines, according to federal regulators. Some \$20 million poured into Stewart Finance during the 1990s. Between 2000 and 2003, a further \$10 million came in, according to Gregory Hays, the court-appointed Chapter 11 trustee for Stewart Finance.

Elsie Williams was born in Atlanta, graduated from a vocational school, and then worked for years as a maid in New York City hotels including the Hilton. She later returned to Atlanta and moved into a subsidized public high-rise. When she took out her \$204.84 loan on Jan. 9, 2001, she says cataracts made it difficult for her to read the paperwork. Ms. Williams says she didn't realize that Mr. Stewart's salesman also charged her an additional \$73.50 for death-and-dismemberment insurance, as well as another \$10 insurance-related fee. Including finance charges, the principal and insurance, Ms. Williams agreed to pay a total of \$360 in five monthly installments of \$72 -- an effective annual percentage

rate of 94.63%, according to the loan document.

A year later, against Ms. Ashby's advice, Ms. Williams obtained a second Stewart loan of \$165. Ms. Williams had undergone a mastectomy after being diagnosed with breast cancer and needed a special bra and a prosthetic breast. This time, the salesman added a car-club membership that cost \$90 though Ms. Williams didn't own a car, couldn't drive and didn't realize she was buying the membership.

"Nobody never explained to me that I was getting any insurance," says Ms. Williams in an interview.

Ms. Williams had gotten caught in Mr. Stewart's effort to capitalize on the federal government's push in the mid-1990s to persuade recipients of Social Security and other government benefits to sign up for direct deposit.

The Comptroller of the Currency saw the electronic direct-deposit initiative as a way to serve the so-called unbanked -- inner-city households preyed upon by high-fee check-cashing outlets. In fiscal 2004, 78% of a total of 742 million government benefit payments were zapped into bank accounts, up from 54% of such payments in 1995. Beneficiaries typically withdraw the money using an ATM card. The program also reduced the government's administrative costs to 13 cents for each payment, down from about 75 cents to mail a check.

The program was a particular boon for Stewart Finance, streamlining the company's operations and giving it access to a new base of relatively unsophisticated borrowers. "Imagine that, a first of the month at [Stewart Finance] without long lines and crowded lobbies," trumpeted the company newsletter in March 2001. "SFC will benefit by not having to supply money, employ security guards, and service several hundred customers a day. The customer is going to enjoy the benefit of not having to come to the office or wait in line to receive their cash."

According to a complaint brought last year by the Federal Trade Commission, Stewart offered loans of \$150 to customers if they signed up for direct deposit. Stewart Finance also trained its employees to tell the borrowers that the service was free, when they were actually being charged \$4 to \$6 a month, according to the complaint. The FTC also alleged that customers were pushed into buying car-club memberships or life insurance that resulted in commissions for Stewart Finance.

After Ms. Williams appeared in the legal-aid office, Ms. Ashby repeatedly called a toll-free number on Ms. Williams's financial statements. Her calls always ended up in "voice-mail hell," she says. Finally, a fellow legal-aid lawyer called the Social Security Administration and stopped any more checks from being deposited in Ms. Williams's account.

Then Ms. Ashby urged others in the legal-aid office to check new client "intake" sheets for complaints about Stewart Finance. Over the next several months, they identified other Stewart clients who had their loans financed with the same pattern of apparent extra fees and improper charges.

Ms. Ashby called in help from the Atlanta plaintiffs firm Bondurant, Mixson & Elmore, and sued Stewart Finance in July 2002 in Fulton County Superior Court in Atlanta. The complaint, on behalf of Ms. Williams and nine other Stewart borrowers, alleged fraudulent and predatory loan and sales practices.

After the lawsuit received local media coverage, Ms. Ashby began receiving tips from former Stewart Finance workers on how the company operated. One caller explained something that had baffled the lawyers: the widely varying charges on the car-club and insurance fees. The caller said these were automatic calculations by Stewart's computer system based on a percentage of a borrower's loan. A former midlevel Stewart Finance executive told Ms. Ashby how the company blanketed neighborhoods largely populated by people who received government benefits with fliers touting the company's loans.

"My personal goal was to bring Stewart Finance down," Ms. Ashby says. She says she sometimes wondered, "How does this man sleep at night?"

Nervous investors were told that a provision in the accounts that forced borrowers into binding arbitration for any complaints would shield the company from lawsuits. "There will not even be a court case," he wrote in the Stewart Lender newsletter.

But powerful forces were lining up against him. Democratic Georgia Gov. Roy Barnes, after his unexpected defeat in the November 2002 general election, decided to volunteer as a legal-aid lawyer, bringing to the case his expertise in banking and predatory-lending laws.

Investors began demanding their money back. Stewart Finance ran low on

cash and then abruptly filed for bankruptcy-court protection in February 2003. Unbeknownst to investors, much of their money hadn't been used to expand the company. Instead, state and federal investigators say Stewart Finance had become a Ponzi scheme, in which old investors were being paid interest from the funds of new investors. According to state investigators and bankruptcy-court officials, Mr. Stewart plowed at least \$1 million into gambling binges and millions more into vacation homes, a 1,000-acre quail-hunting plantation called Pinewood near Albany, Ga., sports memorabilia, firearms and a skybox in the football stadium at the University of Georgia, his alma mater.

Ms. Ashby also had contacted a former classmate who worked for the FTC, which launched its own investigation into Stewart. In September 2003, U.S. District Court Judge Jack Camp in Atlanta froze many of Mr. Stewart's assets. Then last May, the judge ordered Mr. Stewart to surrender to U.S. Marshals after he failed to pay a sanction for the sale of a family home in Hilton Head, S.C., after the freeze was in effect. At the same time, a special assistant attorney general representing the Georgia Secretary of State's office was wrapping up a planned criminal indictment against Mr. Stewart, alleging securities fraud and racketeering. On May 13, the day before Mr. Stewart was to report to U.S. Marshals, Andrew Ekonomou, the special assistant attorney general, was scheduled to present the indictment to a local grand jury.

But early that morning, Mr. Stewart got up and drove a few blocks through the fog to a rental home he owned, parked his Mercedes S500 and shot himself between the eyebrows with his Smith & Wesson .38 caliber revolver. A typed letter to his two adult sons, one of several notes left in his car, said: "I have a choice that I can make now that I will not have later. . . . I have lived a very good and happy life and I have very few regrets. Love, Daddy." Mr. Stewart was buried in a local cemetery three days later. He was 54.

Mr. Lotito, the lawyer who represented Mr. Stewart, says he planned a vigorous defense. "There were defenses and there was another story to be told on Ben's behalf," he says. Mr. Lotito says Mr. Stewart was hit with a "perfect storm" that included civil litigation, an investor run on the bank and the exit of a lender. All that saddled Mr. Stewart with nearly insurmountable challenges,

the lawyer says.

Mr. Stewart's widow, Janice, insists her husband has been wrongly accused. Panicky investors who turned on the company were the real culprits, she says. "He never had been put before a jury or found guilty of anything," Mrs. Stewart says. "All the investors loved him to death as long as he was paying them the high interest."

Since Mr. Stewart's death, the Georgia Secretary of State, representing the interest of investors seeking to reclaim some of their \$30 million, and the FTC, representing the company's thousands of borrowers, have been tussling over the remaining financial crumbs of his fortune. Lawyers for the two sides are attempting to negotiate a settlement. Altogether, about \$5 million in assets remain, including the benefits of several life-insurance policies.

In late August, Mr. Stewart's personal property was publicly auctioned. The temperature touched 97 degrees as buyers and the curious, covered in sweat, drifted in and out of a Stewart Finance collection office, looking over vehicles, guns and office furniture, and bidding on his assets. The mill Mr. Stewart had hoped to reopen was among the items for sale.