

Chapter 11 status forced on 1Point

Under oath, CEO takes the Fifth

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While 1Point Solutions LLC President and CEO Barry Stokes remained silent Wednesday, the velocity of the troubles swirling around Stokes and his company has not slowed.

On Wednesday, four dissatisfied clients suing 1Point in federal civil court, forced 1Point into a Chapter 11 bankruptcy. The Department of Commerce and Insurance also revealed that one of the two licenses Stokes held to sell insurance and securities in Tennessee no longer is valid.

As part of the bankruptcy case, a trustee will be appointed to take over 1Point. The trustee will try to make sense of what's happening at the company and resolve claims from anyone who says that 1Point owes them money, said Kevin Sharp, an attorney representing 1Point, but not Stokes.

"I think this is really what's best for everyone involved," said Sharp. 1Point did not protest the "involuntary" bankruptcy order.

On Tuesday, a 1Point client allegedly missing \$7 million from its 401(k) fund asked a federal judge to force Stokes or another 1Point representative to answer questions about Stokes, 1Point, its operations and the money said to be missing from 1Point's coffers.

The move came after Stokes had invoked his Fifth Amendment right not to incriminate himself during a Friday deposition (out-of-court testimony under oath) with attorneys representing Beck/Arnley Worldparts. Stokes also said that as 1Point's sole owner and employee, he is the only person who can answer Beck/Arnley's questions.

Beck/Arnley is an automotive parts manufacturer with operations in Smyrna. The company filed suit against 1Point two weeks ago after questions were raised internally about its employees' 401(k) accounts. The company was told this month by a former 1Point attorney that its money is "gone and likely unrecoverable," its suit says.

Stokes declined to answer more than 20 questions posed by Beck/Arnley's lawyers during the deposition. Among them, "Have you ever transferred any asset, including money to any account or location outside of the United States?"

"On the advice of counsel, I take the Fifth," Stokes said, according to a transcript filed in the court record.

The Fifth Amendment protects a person from offering testimony about one's self that may be damaging in a criminal case. There is no such protection for a corporation, said David Raybin, a Nashville lawyer who isn't involved in the 1Point cases.

"It is relatively rare for a person to invoke their self-incrimination (Fifth Amendment) rights in a civil proceeding," said Raybin, who has 30 years of experience as a white-collar crimes prosecutor and who now defends companies.

"They were trying to take the shortcut, go straight to (the) source and ask where the money is; since he isn't going to comply, now they are going to have to go around him, get on the proverbial paper chase" and subpoena company documents, he said.

Stokes agreed at the deposition to surrender his passport voluntarily to an attorney representing 1Point because of Beck/Arnley's concerns that Stokes might leave the country, according to the transcript.

Stokes didn't return calls Wednesday.

Despite Wednesday's bankruptcy order, other legal action in U.S. District Court can continue against Stokes individually, U.S. Bankruptcy Court Judge Keith Lundin ruled. Attorneys familiar with such cases said Lundin's order would cover any civil or criminal proceedings against Stokes.

The Tennessee Department of Commerce and insurance has 30 days to decide if it will pursue any "regulatory" action against Stokes, John Morris, a deputy commissioner with the agency said. The department can suspend or revoke Stokes' license to sell securities or it could fine him.

Last week, AIG Financial Services informed the department that it had terminated its relationship with Stokes. Some of the retirement and other products Stokes offered clients were through AIG.

Reached for comment late Wednesday, AIG spokesperson Joe Norton said that he knew nothing about Stokes and his relationship with AIG and could not comment on the matter. •