



NASD Panel Awards Exxon Mobil retirees

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WASHINGTON - A securities-industry arbitration panel has awarded \$22 million to a group of Exxon Mobil Corp. retirees who accused brokerage firm Securities America Inc. of improperly steering them into high-risk investments between 1996 and mid-2003.

The three-member panel of the National Association of Securities Dealers, the brokerage industry's self-policing organization, made the award Monday against Securities America, a subsidiary of Ameriprise Financial Inc.

The \$22 million award includes some \$11.6 million in compensatory damages, \$3.5 million in punitive damages and \$4.7 million in attorneys' fees, and is said by experts to be one of the largest of its kind ever levied against a brokerage firm.

Securities America said it would appeal the ruling, which was first reported in Wednesday's editions of The Wall Street Journal and confirmed by the NASD.

Minneapolis-based Ameriprise Financial, which was spun off from American Express Co. last fall, provides financial planning, asset management and insurance with a major focus on baby boomers with \$100,000 to \$1 million in assets.

At issue in the arbitration case were Securities America's sales to the Exxon Mobil employees of variable annuities and Class B mutual fund shares. Regulators have targeted some of Ameriprise's sales practices in the two areas in recent years.

A Securities America broker promised the 32 mostly blue-collar employees huge returns on their investments and put their retirement savings mostly into variable annuities and Class B fund shares, according to the group's claim against the brokerage. It said that the broker, David McFadden, failed to disclose the high fees that he and Securities America would reap.

The employees "put their faith in this securities company and their broker," Joseph Peiffer, a New Orleans attorney who represented them, said in a statement issued late Wednesday. "The arbitration panel agreed with us that McFadden ... and Securities America betrayed that faith, leading to a substantial loss of much of their retirement savings."

"My clients were told they would be able to enjoy a lifestyle equal to the one they had while working," Peiffer said. "Instead, many of them ended up going back to work as Wal-Mart greeters, stocking vending machines or other jobs paying a fraction of what they made at Exxon."

While the alleged offenses occurred between 1996 and mid-2003, the bulk of them took place in 1997-98, according to attorneys representing the employees. Securities America was acquired by Ameriprise Financial in 1998; its brokers are said to operate as independent business people.

The Journal quoted a Securities America spokesman as saying: "We feel very strongly the decision was wrongfully decided, and we intend to file a motion to vacate." Said McFadden: "I disagree and am disappointed with the award."

Typically, investors in Class B fund shares don't pay an upfront sales commission when they make a purchase, but often pay higher fees and a commission when they sell the shares. Class B shares have been criticized by regulators because some investors purchase them on the incorrect belief that they are commission-free.

Variable annuities are contracts between an investor and the company selling it in which the company agrees to make periodic payments to the investor, beginning immediately or at some future date. Their periodic payouts change depending on the performance of the underlying mutual funds, bonds or other investments.

Sales of variable annuities, which are tax-deferred and often used to save for retirement, have ballooned in recent years. The NASD regulators have received complaints from individual investors about sales practices and have taken numerous disciplinary actions against individual brokers and investment firms for alleged sales abuses.

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