

Monster Arbitration Ruling Against Ameriprise Unit

May 17, 2006 1:37 PM, By John Churchill

An NASD Arbitration panel awarded 32 retired Exxon employees a total of \$22 million in damages for losses suffered when their broker put most of their savings in variable annuities and B-share mutual funds.

According to the statement of claim, the workers say that David McFadden, a broker with Securities America, a subsidiary of Ameriprise Financial, encouraged them to retire and promised them impressive returns from the investments, but failed to disclose the high fees attached to these investments. The losses in some of the accounts were substantial, according to the plaintiffs. One of the workers entrusted McFadden with his \$992,208 nest egg in 1998, which McFadden put in a variable annuity. By May 2003 it was worth \$302,265. McFadden's take? The rep made \$66,679 in commissions from the investment. McFadden and Securities America disagree with the ruling and have said they will file a motion to vacate the award.

Like many broker/dealers in the Age of Spitzer, Ameriprise has been the subject of several mutual fund-related fines and lawsuits, including a (miniscule) \$1.25 million NASD fine last year related to sales of 529 plans, and several brewing class-actions filed in 2005 related to undisclosed conflicts of interest in its house mutual funds.

And while the \$22 million award in this arbitration is breathtakingly high for a customer-related complaint, it is also just one of many blemishes on class B shares and variable annuities caused by inappropriate sales practices. Last year, Ameriprise, Citigroup, Chase, Merrill Lynch, Wells Fargo and Linsco/Private Ledger were fined a total of \$40 million for unsuitable B- and C-share sales. Ameriprise was fined \$13 million for its part.

Variable annuities were also the subject of increased NASD scrutiny in 2005, and with good reason—assets increased by over 20 percent to approximately \$985 billion. The NASD filed a total of 88 cases last year for improper sales practices involving variable annuity contracts.

B shares and variable annuities are not inherently evil, but have received a lot of negative press for their inappropriate use and high fees. A recent study by the research firm Morningstar, titled *Mutual Fund Share Class Limits and Share Class Suitability*, explains the benefits and drawbacks of A, B and C shares. The study finds that B shares, with no front-end sales charge but higher annual fees than A and C shares, are good for investors who don't know their investing time horizon and can't invest enough to receive breakpoint discounts. However, the study also finds that share classes are, in general, too complicated and too confusing for retail investors; Morningstar says mutual fund companies should consider eliminating some share classes outright or at least standardize them to make choosing one simpler.

Find this article at:

<http://www.registeredrep.com/news/monster-ameriprise-ruling/index.html>