New Orleans CityBusiness

Louisianians 'suckered' by big scam

by Matthew Penix

Posted: Monday, October 16, 2006

In 2000, Stephen Benoit was excited about his $1.2-million retirement portfolio. Benoit, then a 55-year-old blue-collar field supervisor for ExxonMobil in Baton Rouge and a New Orleans office manager, planned on living his golden years hiking in the Smoky Mountains, playing 18 holes in Las Vegas, jet setting around the country and dining at fine restaurants.

Then he met retirement broker David McFadden and nearly lost it all. With McFadden's CPA background and promise of up to 14 percent return on investments, Benoit decided to liquidate his company-sponsored 401(k) and deposit the money in accounts with McFadden's employer — Omaha, Neb.-based Securities America Inc. He realized he was duped more than a year later. By then, roughly $380,000 was left in his account.

"I got suckered," Benoit said. "I'm still mad at myself for this." Benoit is one of about 100 Louisiana residents between New Orleans and Baton Rouge who lost $11 million in retirement funds to McFadden's scheme, according to New Orleans-based attorney James Swanson, who spearheaded a three-year arbitration hearing against McFadden and Securities America Inc.

$23-million payout

The scam worked until 2003, Swanson said, until he gathered together 35 of McFadden's alleged victims. Three years later in May, a 90-day arbitration hearing ended when a three-person panel ruled America Securities must pay nearly $23 million, said Swanson. Securities America has already agreed to pay nearly $14 million of the settlement and is appealing the rest, according to a company case brief. Since the ruling, more than 45 other residents have come forward claiming to be victims of McFadden. The influx, which included Benoit, paved the way for a second arbitration hearing scheduled for no later than Nov. 21, 2007, Swanson said. The new complainants are so great in number a third arbitration hearing is expected to be scheduled in 2007, Swanson said.

Securities America, which admitted it failed to properly oversee McFadden, was fined $2.5 million by NASD, formerly the Nationally Association of Security Dealers, according to case briefs. Neither McFadden nor Securities America responded to repeated interview requests.

Federal regulators such as NASD, the self-regulatory agency for the U.S. securities industry, are concerned other employees are just as vulnerable to

similar pitches after they take early retirement incentives and buyouts.
"If it appears that an employer recommends a firm, especially from someone in the New Orleans oil and gas industry or chemical industry, that doesn't make it credible," said John Gannon, NASD vice president of investor education. "That just means a firm talked their foot in the door. You still need to do your homework."

Pitfalls to avoid

Gannon urged retirees to take a realistic approach to investing. The ExxonMobil employees were told they'd be able to take roughly 10 percent out of their funds. Most financial advisers advise clients to take no more than 4 percent a year from 401(k)s or other investments. Taking out too much money reduces interest income, said Gannon. Investors are then more vulnerable to running out of cash, he said. Expect realistic investment returns. McFadden offered a 14 percent return, which is wildly optimistic. Gannon said retirees should expect a conservative return of 6 percent a year on a diversified mix of stocks, bonds and certificates of deposit.

The NASD recommends investors also know what they are investing in, how much it costs and what the broker makes in commissions. Swanson said his clients often invest in high-cost variable annuities with expenses in some cases of 3 percent a year, or roughly $15,000 on a $500,000 investment. McFadden would then sell these annuities with appropriate disclosure about expenses, a move in which earned him as much as $1.5 million a year and made him one of Security America's top producers, according to case briefs.

For many employees, keeping money in the 401(k) plan is the safest approach, Gannon said. That's where Benoit went wrong. He kept watching his portfolio fund shrink, he said. At 60, he's sent out dozens of résumés in the oil and gas sector but so far nobody is interested, he said. "I just don't know what to do," he said. "So I'm not doing anything but existing." "I don't want to be that guy standing at Wal-Mart saying, 'Come on in,'" he said. "I had too many things going for me."•