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Morgan Stanley To Pay $7M Over FINRA Charges

March 25, 2009

Morgan Stanley & Co. will fork out more than $7 million to settle charges by the Financial Industry Regulatory Authority that it failed to supervise two brokers who persuaded employees at Xerox Corp. and Eastman Kodak Co. to take early retirement and invest their savings with them.

FINRA charged one of the two Morgan Stanley brokers in a formal disciplinary complaint, permanently barred the other from the securities industry and suspended their former supervisor, the regulator said Wednesday. All three worked at Morgan Stanley's Rochester, N.Y., branch.

Under the settlement, Morgan Stanley will pay a $3 million fine and return more than $4.2 million to retirees who invested with the brokers — Michael Kazacos and David Isabella — on “unrealistic promises” of consistently high returns.

The brokerage firm failed to supervise the activities of Kazacos and Isabella, who committed numerous FINRA violations, the agency said.

Kazacos — who told customers they would earn investment returns of 10 percent per year — has been permanently barred from working as a broker, FINRA said. Isabella still must face a three-member FINRA hearing panel, it said.

The brokers' supervisor, Ira Miller — who managed the Rochester branch — was fined $50,000 and suspended from acting in a principal capacity for a year.

According to the regulator, 184 Morgan Stanley customers suffered financial harm as a result of the misconduct. In many cases, affected customers' principal investment was eroded by market declines, forcing some to return to work at reduced income, FINRA said.

The settlement will restore the losses of 90 Morgan Stanley customers, FINRA said. A hundred other victims have already settled with the broker dealer, it said.

“Protecting investors who have retired or are considering retirement has been one of FINRA's top priorities,” FINRA chief of enforcement Susan Merrill said.

“Brokerage firms and brokers who serve investors considering retirement must ensure that their customers are given suitable investment recommendations based upon reasonable assumptions of market performance and are given thorough disclosure of investment risks,” Merrill said. “The supervisory failures of Morgan Stanley and its management led to losses suffered by customers at a vulnerable time in their lives — retirement — which could have been avoided.”

Morgan Stanley is pleased to put the matter behind them, the firm said in a statement Wednesday.

“The firm takes its supervisory obligations seriously and has enhanced its supervisory policies and procedures since the conduct at issue occurred a number of years ago,” Morgan Stanley said. “Morgan Stanley also values its client relationships and has worked with many of the affected clients and their counsel to resolve their claims in a mutually acceptable manner.”

Kazacos and Isabella are no longer employed at the firm, it added.

Their victims hit Morgan Stanley with a half-billion-dollar putative class action in January 2008 over the brokers' conduct, claiming they were persuaded to retire early and invest their money in a fool's paradise.

The suit, filed Jan. 16 in a New York state court, claimed mom-and-pop investors were taken for a ride with false assurances that they could live comfortably if they quit their jobs and entrusted their retirement benefits to a financial plan created by the brokers.

The complaint alleged Kazacos held free seminars and hooked people with a sales pitch that promised early retirees could expect to earn 10 percent in interest on their investment portfolio every year with little risk, a plan that was not “historically achievable or accurate.”

The plaintiffs' lawyer, Joe Peiffer of Correro Fishman Haygood Phelps Walmsley Willis & Swanson LLP, said Wednesday the suit had since been dismissed but was currently on appeal.

The firm represents 60 other affected customers in arbitration proceedings still pending before FINRA, Peiffer said.