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Redemption

After losing hundreds of thousands of dollars, 32 former Exxon employees and their spouses received a near-record \$22 million award from the broker they say swindled them.

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Together, they make up about one quarter of a 32-plaintiff group of former Exxon employees and their spouses granted one of the largest awards ever given by the National Association of Securities Dealers arbitrators.

They are pipefitters and managers. Widows and cancer survivors. Husbands, wives and parents.

They are the salt of the earth. They didn't want a lavish retirement, just enough money to live and leave some for the kids. And, of course, maybe get a fishing boat.

Instead, they lost it all--homes, property and hope.

They lost hundreds of thousands of dollars, with little explanation beyond "don't worry, it'll come back." They went back to work and told their children they were bored, not that their retirement checks had stopped coming.

They are a snapshot of a still-to-be-determined number of people who trusted Securities America and its broker, David McFadden, a man who played loose and fast with their money while filling his own coffers with fees and commissions.

They could be you.

'Choupique in the stew'

Bradley Simon is low maintenance personified. He worked for Exxon for nearly 32 years as an operations controller and never so much as opened a checking account. When payday rolled around, he'd cash his check and pay his bills with money orders. He provided for his wife and three children, rarely buying himself something he didn't need. "You know what you're worth without a damned new truck," says the 63-year-old Abbeville native who rarely minces words.

Simon looked to return to work at Exxon after beating prostate cancer in 1997. He speaks highly of how the company treats long-time employees, and feels he could have left his shift work for a day job with Exxon. But that idea didn't appeal to Simon, who found himself hearing a pretty desirable pitch from McFadden, who treated potential clients to a free lunch seminar at Drusilla Seafood.

"I went to one of those damn seminars he had," says Simon. "He said, 'What are you doing working? I can make you more money at home than you can at work.'"

A recurring theme that came out through arbitration was the promise that a 10% return on an investment was a "no-brainer" and if McFadden couldn't deliver his clients a 10% to 14% return, they should fire him.

McFadden, through his attorney, declined to be interviewed for the story.

Simon retired in 1998--the same year he had two successful heart bypasses--and invested more than \$700,000 with McFadden and Securities America. When he began losing money at an alarming rate, Simon contacted McFadden, warning him not to let the account fall below \$400,000. Each sign of concern was met with the answer that a plan was in place and things were going to be OK. "He had a plan," says Simon. "His plan was to fleece our f---ing asses." By the time he moved his account, it had dwindled to \$213,000.

Never needing more than the shirt on his back, Simon was confident he could make it without his full retirement account. But he found himself scared to fall asleep at night, keeping a close watch on his wife. "As the money went down, I could cope. She couldn't," says Simon. "For a while she was talking about committing suicide."

The suicide threats became too much for Simon to bear, and he found himself returning to a time when lawyers weren't called to settle disputes and justice wasn't necessarily found inside a courtroom. Before he could do something he'd later regret, his wife promised to stop talking about suicide.

In the early days of his retirement, Simon and his wife lived in "a real hot nut condo" on Vermilion Bay. Simon referred to himself as the "choupinque in the stew"--someone who clearly didn't belong among his doctor and lawyer neighbors. The loss of his retirement meant the couple had to leave the condo. They moved into a mobile home while Simon personally renovated a house they had purchased for \$5,000. The condo became a point of contention when Simon testified during arbitration.

"The day of the trial I wanted to jump up and strangle those bastards," says Simon. "They said 'condo' like we were spending excessively. I sold my house in Baton Rouge to move there. That was our home."

In 2002, Simon began knocking on doors looking for work. He bought a 13-foot flatbed truck but couldn't find anyone who would take him on. "Who would hire an old, ugly connass with cancer?" he says. So Simon took a drastic step. He approached a potential employer and offered to work for free for a month.

At nearly 60 years old, Simon began delivering oil field supplies across the southern United States. Within two weeks, he was getting paid. He stayed at the job for two years, rotating between driving and fixing his house, often at the expense of sleep.

With the award money in hand, Simon can finally rest easy. "It's not a relief for me, it's a relief for my wife," he says. "She can have security. I've got a lot of medical problems, I'm not going to be here long."

Complete disbelief

Pat Salatich was 67 when she was given the opportunity to retire from Exxon after spending 26 years as an occupational health nurse at the Baton Rouge refinery. "I had sort of planned to retire anyway," she says. "It was just a wonderful time. And that was the last time it was wonderful."

The day after her March 2000 retirement, Salatich awoke to find her husband looked ill. He was diagnosed with cancer and died in 2001. During the year, Salatich wasn't watching the status of the \$565,000 she invested with McFadden.

Salatich's case highlights two of the more egregious complaints against McFadden from his former clients. First, part of the variable annuity McFadden sold involved what is known as a death benefit. When the benefit holder dies, his account balance is returned to its original amount less any withdrawals. For example, if an account's value is \$200,000 lower than where it started and the account holder had withdrawn only \$100,000 then the other \$100,000 would be returned to the account when the account holder dies.

But it's hard to understand why McFadden would have sold the death benefit to Salatich. The benefit comes with a seven-year requirement and annual charge of 1.4% of assets. And the benefit expires at age 70, causing Salatich to pay four

years worth of fees for a product she was no longer eligible to receive.

The second instance came in the summer of 2002 when Salatich received a call from McFadden. He told her the market was struggling and he wanted to take a big piece of her money and put it in a safe place.

In late 2003, Salatich got a letter from Securities America. Concerned with the low balance, she called McFadden's secretary and asked for the balance of the second account McFadden had planned to open. "She said, 'Ms. Pat, this is the only account you have.'"

Instead of opening a second account, McFadden failed at an attempt at market timing, a high-risk method of trading securities that has a high yield when successful, but is very difficult to succeed at consistently.

"That was a Thursday afternoon, I'll never forget it as long as I live," says Salatich. "I wasn't even angry. I was so hurt and horrified. It was complete disbelief."

The next Monday, Salatich met with McFadden, who again was ready to offer advice: Find a job and sell everything she owned. Salatich looked for work, but says her age proved to be an unspoken barrier to employment. When she quit doing business with McFadden she was down to \$70,000 before back-end charges.

"I had worked all my life and not been real lavish," she says. "I expected not to worry, and I didn't."

'He just went crazy'

Dickie White is tired, his eyes bloodshot. He's "wore slap out," as he puts it.

The now 63-year-old wasn't even thinking about retirement when he first attended one of McFadden's seminars in 1997. He and wife, Dona, just wanted to catch up with some of the Exxon employees they hadn't seen in a while.

A year later, they were at another seminar and decided to retire. With Dickie's Exxon retirement and some inheritance they received, the couple invested with McFadden with an account totaling nearly \$860,000. "We told him at the beginning we didn't want to make a lot of money, just maintain and leave some for our kids," says Dickie.

Once the couple retired, they didn't watch their account closely. Dickie's father was ill and died the day before Thanksgiving in 1998. His mother passed away a year later to the day. From there, their attention turned to Dona's mother, who died in 2002. It was only then the couple felt like they could begin focusing on themselves. "When you have your mind on that stuff, you don't have time to worry about other things," says Dona.

That was also when the couple began to notice the sharp decline in their account balance. The Whites instructed McFadden to secure their money in lower-risk products, only to see their balance fall to \$250,000. Dickie called McFadden's office and talked to his assistant Shane Haag.

"I said, 'What don't you understand about, "Get us out of this?'" Dickie says. "He never would stop. He just went crazy with our money."

McFadden enrolled the Whites and others in a high-commission, high-fee variable annuity program that he lauded for its tax-protection under the 72(t) tax law. What the majority of the plaintiffs did not know was McFadden wasn't supposed to sell that product on the basis of tax protection, since their Exxon retirement accounts were already tax-deferred. Part of the 72(t) law requires that once a retiree declares a withdrawal amount, it cannot be changed for the first five years.

Down to \$250,000, the Whites met with McFadden. They told him to secure \$100,000 to meet their 72(t) withdrawal requirements. The rest could be invested as long as it didn't lose more than 10%. Within three months, the \$100,000 was

gone. "He said, 'I made a mistake,'" Dickie recalls.

All told, the Whites lost in the neighborhood of \$750,000 with McFadden. The couple returned to work--Dickie in the service department at Team Honda and Dona as a title clerk for Team Toyota. Dickie recently had to take some time off to help battle the exhaustion he faces with the new job, but considers himself lucky to be working at all. "The Lord looks after us," he says. "He looks after idiots and drunks, and he takes care of us."

There is nothing about the ordeal that can make the Whites smile, not even the award. Nothing can give the Whites the time they missed with their grandchildren because they were forced back to work.

Says Dona: "I feel like I've been cheated out of the opportunity to be more involved in their lives."

Dog-and-pony show

Throughout the retirement process, Exxon worked with its employees calculating retirement numbers and allowing the workers to change their minds about leaving up to the date of their retirement. But one thing was made clear: once you retire, you will not be rehired.

George Moore made the decision to retire at the end of 1999 after 30 years in process operations with an eye on the pending Exxon-Mobil merger and the effect it would have on his retirement. Moore, now 61, and his wife, Elaine, attended one of McFadden's seminars. "In hindsight," he says, "it was a dog-and-pony show."

But it was a convincing one. When Moore decided to retire he handed McFadden \$640,000 to invest. The Moores wound up in the same variable annuity program common among McFadden's clients, including the death benefit.

The Moores say they talked to McFadden seven times while they were his clients. The first six involved McFadden telling them not to worry about the dismal performance of their investments. Then a letter came from Securities America in August 2002. Their \$640,000 had shrunk to \$150,000. Any consolation they had been able to muster from McFadden's previous assurances was gone. "It was just constant worry," says Elaine, also named as a plaintiff in the case. "There was no retirement because you were worried about your money."

McFadden would make two more moves with the Moores. The first would be to tell them to cut their expenses down to \$2,000 a month and return to work. The other was to take the remaining money and take a shot at market timing, telling George. "It was [his] turn to make some money."

The market timing proved to be disastrous, and the \$150,000 turned into \$70,000. Since the Moores were tied into the 72 (t) they couldn't cut their draw and had to continue taking out \$35,000. Couple that with a \$20,000 back-end surrender charge, and there was nothing left.

So the checks stopped.

The Moores, in the meantime, sold family property to pay their mortgage. George returned to Exxon, but not in his former position, which drew between a \$50,000 and \$60,000 a year salary. Instead, he woke up every morning and went to Exxon and stocked the vending machines for \$7 an hour. "At first it was a little strange," he says. "I had no money, it was a godsend I had that."

Moore stocked vending machines and did other odd jobs for about a year before settling into renovating and remodeling work. He was in an Orange, Texas, paper mill when attorney Joe Peiffer called him to tell him about the arbitration award. "I danced a jig right there in the paper mill," says George. "That's the god's honest truth."

But like the other plaintiff's the joy of the award only repairs so much of the hurt. Elaine says George will likely work for

another year before calling it quits again. He isn't so optimistic.

"My retirement's gone, it's over with," he says. "It's work until I die now."

No such thing as a free meal

It's hard to lose \$150,000 in about three years and consider yourself one of the lucky ones, but M.J. Stallings, through nothing more than natural skepticism, finds himself in that position.

Stallings, 67, worked for nearly 30 years as a pipefitter for Exxon, five more years than McFadden told him he needed to. Stallings met with McFadden through the recommendation of a former co-worker at the Exxon chemical plant who raved about the money McFadden was making clients. Stallings decided to use McFadden after attending one of his free lunches.

"Those meals weren't free after all," says Stallings. "Those were costly meals."

And it turns out McFadden wasn't paying directly out-of-pocket to feed his potential clients either. What the attendants didn't know was that the people whose products McFadden sold were picking up the food tab. During the arbitration, Corroero Fishman Managing Partner Jim Swanson and Peiffer cited a letter McFadden wrote to American Skandia to confirm an ongoing agreement where he would be paid to guarantee a certain amount of American Skandia product would be sold. The letter also references a similar agreement between McFadden and Nationwide.

Rather than take an early retirement, Stallings continued to work until he was 60 to build up his savings. "He tried to talk me into it at 55," says Stallings. "I wanted to stay another five years just to be on the safe side."

That wasn't the only precaution he took.


Of the 32 plaintiffs in the case, only Stallings chose to take his pension from Exxon in the traditional manner rather than a lump-sum amount and investing with McFadden. While Stallings would be drawing \$2,000 a month out of his initial \$260,000 from the thrift component of his retirement plan, he could also count on a monthly pension check. "I just had a problem giving over all of my life savings," he says.

Like other claimants, Stallings worried as his balance shrank. And like the others, Stallings was met with assurances that it was only a matter of time before things began looking up.

Stallings says he was "happy" when he heard about the judgment in his favor--a strong word for a soft-spoken man who doesn't get worked up about too much of anything. But the skepticism that kept things from being as bad as they could have been has been elevated by the ordeal.

Stallings can't bring himself to reinvest the money for the type of retirement he expected to get seven years ago. Now, all the money that has been returned to him sits in an IRA. "It's not going to make as much," he said, "but I'm not going to lose it twice."

For more information on the case, click [here](#).

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