



Judge: Retirees due \$22 million

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A federal judge in New Orleans has upheld an arbitration panel's \$22 million award to 32 ExxonMobil retirees in Baton Rouge, who alleged that an investment firm and its financial adviser put their money into risky investments.

Securities America Inc. and financial planner David McFadden of Baton Rouge have until Nov. 1 to ask the federal 5th Circuit Court of Appeals to set aside the award, said Jim Swanson, one of the attorneys who represented the retirees. However, to do that, Securities America and McFadden must post a \$23 million bond.

"I'm hopeful that they'll do the right thing and pay," Swanson said.

National Association of Securities Dealers rules require the firm to keep a certain amount of money available, so Securities America has enough money to pay the judgment, Swanson said.

"We are disappointed with the court's ruling and are likely to appeal portions or all of the decision," said Paul Johnson, a spokesman for Ameriprise Financial, the parent company of Securities America.

Johnson said he could not comment any further on the case.

Swanson said he was happy for the retirees, describing Judge Jay C. Zainey's ruling as "a good vindication" of the ExxonMobil refinery and chemical plant workers' case.

The retirees alleged that McFadden steered their retirement money into annuities, normally reserved for tax deferral, and Class B share mutual funds, which carry high annual fees. The plant workers' say in their lawsuit that they lost the majority of their life savings because of "the blatant self-dealing" of Securities America and McFadden.

A three-member panel of the National Association of Securities Dealers agreed. The award included \$11.6 million in compensatory damages; nearly \$4.7 million in attorneys' fees; and \$3.5 million in punitive damages.

The retirees individually received awards ranging from a little more than \$144,000 to nearly \$1.4 million.

Securities America and McFadden appealed, arguing among other things that the arbitrators could not award punitive damages under Louisiana law. The retirees argued that NASD rules clearly allow punitive damage awards, and the court agreed.

Securities America and McFadden also argued that the attorneys' fees awarded were grossly excessive, three times the normal hourly rate in Louisiana and three times what the retirees' attorneys requested, court records show. The retirees' attorneys contended that the fees were appropriate because they took the case on a contingency basis and spent hundreds of thousands of dollars up-front to handle the case.

The judge agreed.

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