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GET MAD & GET EVEN

Lawyers show battered investors how to sue their brokers

By SUZANNE McGEE

"The only way you're going to get compensated for your losses is by bringing an arbitration action or a class-action suit," lawyer Stuart Meissner told his audience.

The motley group of battered stock-market investors, fuming about their Wall Street losses, gathered at the Midtown hotel conference room last Thursday evening, learning how to tape conversations with a broker (in states where that's legal) and what kind of ammunition they need to seek compensation.

"It's great if you've got a copy of an analyst's research that you jotted down notes on," Meissner tells them. "That shows you relied on the advice."

Just call it "Wall Street 101: How to Sue Your Broker." Wall Street's 10 largest investment banks have agreed to settle regulators' allegations of conflict of interest, closing the door on government suits for the price of $1.4 billion.

But the pact opens the floodgates for a wave of new lawsuits and arbitration claims by thousands of aggrieved individual investors.

Nationwide, lawyers like Meissner are trolling for clients in the expectation that Wall Street firms will end up paying out billions more to settle those claims.

"The settlements encourage suits because they involved the publication of analysts' e-mails and documents that plaintiffs' lawyers will use as ammunition," says Jordan Hershman, co-chairperson of the securities litigation group at Testa Hurwitz & Thibeault.

"The cases we've seen are just the tip of the iceberg," says Ted Babbitt, of Babb, Johnson, Osborne, LeClainche, a law firm in West Palm Beach, Florida.

People familiar with the matter say the big investment banks have approached the plaintiffs in a giant class-action suit in federal district court for the Southern District of New York, hoping to settle.

The payoff for the plaintiffs — who allege 55 investment banks and 309 of the companies they brought public manipulated the market and defrauded investors — could total $3 billion to $5 billion, those people say.

"We've been given the documents that will allow us to prove those allegations on a silver platter" by regulators, said Melvyn Weiss, whose firm, Milberg Weiss Bershad Hynes & Lerach, is the lead counsel in the case.

"Underwriters aren't going to be able to escape from the facts contained in those damning e-mails," says one securities lawyer.

The current wave of litigation is unprecedented on modern-day Wall Street. Most big lawsuits against investment banks have centered on one bank and/or one product, such as Prudential's sale of limited partnerships.

This time, virtually every investment bank has been dragged into the fray.

Scenting big settlements and hefty fees, the mass torts lawyers — lampooned in John Grisham's latest thriller and better known for suing makers of diet pills and breast implants — are jumping into the fray.

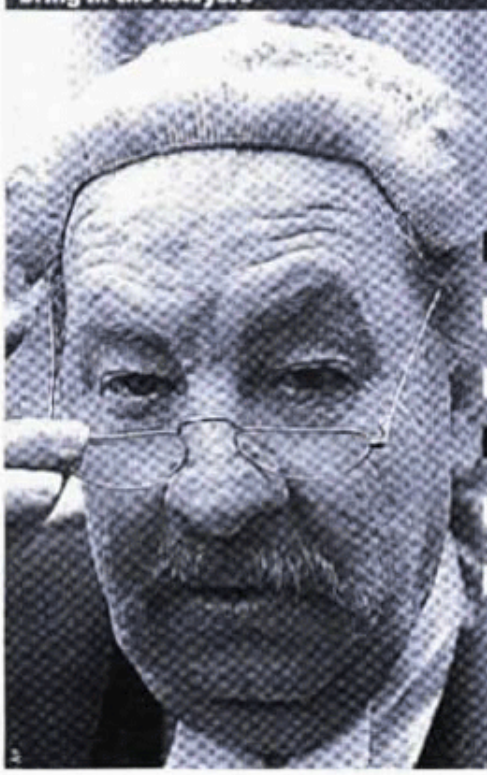
"We don't usually make big mistakes when we pick a target," says Babbitt.

"Our involvement doesn't bode well for Wall Street."

Meissner tells clients they'd be better off using the arbitration system than the courts. Nearly six out of every 10 investors win some compensation from the National Association of Securities Dealers, he says, and the average award jumped to $195,000 this year from $141,000 in 2002.

But with a record 7,704 arbitration cases filed last year, it may take 12 to 18 months for a new case to wend its way through the NASD system, Meissner admits. And he warns one elderly prospective client, "facing reality, no one is going to be able to get back 100 cents of every dollar you lost."

Bring in the lawyers



In the wake of the global settlement with Wall Street, lawyers are primed to make a bundle suing on behalf of battered investors. Here's how the lawsuit numbers are shaping up:

Class-action litigations filed	
2000	214
2001	489
2002	266
2003	84*

Arbitration cases filed:	
2000	5,558
2001	6,915
2002	7,704
2003	2,266**

*Year to date **Thru March

Sources: Stanford University Law School, National Association of Securities Dealers