Stifel to pay second FINRA fine for same broker

FP financial-planning.com/news/stifel-to-pay-second-finra-fine-for-same-broker

Dan Shaw November 11, 2024

Regulation and compliance

Embattled broker lands Stifel another multimillion-dollar penalty

By November 11, 2024, 2:13 p.m. EST 4 Min Read

JHVEPhoto - stock.adobe.com

Text messaging is at the heart of a series of arbitration complaints that are seeing Stifel fork out millions over one of its brokers touting structured notes.

St. Louis-based Stifel was again hit with a big award Friday for recommendations made by broker Chuck Roberts, who runs a practice called the CR Wealth Management Group. A Financial Industry Regulatory Authority arbitration panel on Friday knocked Stifel with nearly $2.4 million in compensatory damages and attorneys' fees over claims made by Douglas Muhlbauer, a pair of insurance firms that Muhlbauer owns and various related entities.

Jeffrey Erez, who represented the claimants in the case, said Monday that he and his legal team were able to build much of their case around text messages sent by Roberts, who has been with Stifel since 2018. The messages conclusively showed, Erez said, that Roberts was characterizing complicated structured notes as low-risk investment opportunities.

"And that was inaccurate," Erez said. "They were in fact high-risk."

READ MORE:
Stifel to fight $14.3M award over broker's structured note recommendations
Despite legal setbacks, Stifel reports record results in Q3
WhatsApp case raises question if firms can even comply with SEC rules, commissioners say
Structured notes 'poised for growth,' Cerulli report says
Lawsuit seeks logic behind SEC fines in WhatsApp cases

Structured notes are a type of debt security often offering high returns but also usually coming with substantial risks and fees. Erez said the structured notes Roberts was recommending were custom-built for his clients.

This isn't the first time Stifel has been hit with a FINRA arbitration award over Roberts' recommendations, and is unlikely to be the last. A three-member panel came down on Stifel last month with a $14.3 million penalty, including a whopping $9 million in punitive damages, over similar allegations.

Stifel has said it plans to appeal that previous award but declined to comment on the latest arbitration decision. Erez said he has 13 more pending complaints against Stifel over Roberts' alleged misdeeds, while two other cases are being handled by other firms.

Erez said he expects a decision in the third claim he's working on to come down in December. Both of the arbitration complaints brought so far against Stifel over Roberts' actions have accused the firm of breach of fiduciary duty, negligence, fraud, breach of contract, violation of Florida security laws and other misdeeds.

Stifel, meanwhile, is among the many wealth management firms that have reached more than $3 billion worth of settlements with the Securities and Exchange Commission over alleged failures to track and record business-related messages sent using digital means. Stifel agreed to pay $35 million in September over charges that it hadn't done enough to prevent illegal "off channel communications."

Erez had initially sought damages in excess of $5 million, along with punitive damages and compensation for costs and attorneys' fees. In the end, his clients were rewarded nearly $1.88 million in compensatory damages and $469,773 for fees.

Of the $1.88 million, $891,764 was for out-of-pocket costs on callable structured notes, and $987,328 was for out-of-pocket costs related to Stifel's Solutions accounts, which allow advisors to make discretionary trades on clients' behalf without getting express permission for each transaction, and Horizon accounts, which allow for nondiscretionary trading.

Erez separately filed a motion in federal court in Miami on Friday asking for confirmation of the arbitration award to his clients, which include Douglas Muhlbauer, The Harbor Group of New York, The Harbor Group of South Florida and the American Endowment Foundation FBO Douglas Muhlbauer and Family Charitable Fund.

Roberts, who remains employed at Stifel, did not return phone calls or emails seeking comment. His BrokerCheck page shows 23 disclosures of customer complaints and other matters, only three of which were logged before he joined Stifel.

Roberts' page lists him as having 34 years of industry experience. Before Stifel, he was at Morgan Stanley and its predecessor, Smith Barney, as well as Oppenheimer, Paine Webber, Lehman Brothers and other firms.

Douglas Schulz, a securities expert and the president of Invest Securities Consulting, said it's not especially surprising that Roberts remains at Stifel. Many times, Schulz said, firms seek to give themselves a bit of legal protection by keeping embattled brokers on the payroll throughout ongoing litigation.

"If they fire him, he may become an adversary and antagonistic and maybe say things like, 'I wasn't properly supervised,'" Schulz said. "As long as you keep him in house and pay his legal fees, you have a better chance of controlling what he may testify to."

Schulz said he wouldn't be shocked at all if Roberts were eventually let go after all the legal dust had settled.

"With the size of these awards, his annual production can't be so big that this is perceived just as the cost of doing business," Schulz said.