

Wells wins sliver of amount sought in Stifel raiding claim

An arbitration panel has ordered Stifel, Nicolaus & Co to pay Wells Fargo Advisors \$167,000 for improperly recruiting former AG Edwards financial advisers.

The award is a fraction of the \$36 million Wells sought in a Financial Industry Regulatory Authority arbitration, and was granted over the objection of the three-person FINRA panel's chairman.

Wells's argument that Stifel "systematically acquired, on a national scale" advisers, managers, support staff and clients of the Wachovia Securities brokerage business should be rejected, panel chairman Frank Romano wrote in the unusual dissent. Wells, he concluded, deserves no monetary award.

"The fact that one arbitrator dissented, coupled with the fact that they only received \$160,000 out of a \$36 million claim speaks for itself," said Ronald Kruszewski, chief executive of Stifel Financial Corp (SF.N), the parent of Stifel Nicolaus.

A Wells Fargo spokeswoman said the San Francisco-based company is "pleased we won this case."

ST. LOUIS WOOS

The decision is part of a long-running saga dating back to Wachovia Corp's purchase of St. Louis-based brokerage firm AG Edwards, Inc. in 2007. Wachovia, which agreed to move its sprawling brokerage business to St. Louis from Richmond, Virginia, as part of the deal, was subsequently purchased in the depths of the financial crisis by Wells Fargo & Co (WFC.N) in October 2008.

Stifel is also based in St. Louis.

Dozens of AG Edwards brokers, managers and support staff defected to the cross-town rival after Wachovia announced it was buying Edwards, a firm with more than 7,000 brokers that was founded in 1887 and that still had Edwards family members in management when the purchase was negotiated.

Wachovia responded with several arbitration claims against Stifel and individual brokers and managers. Most have been resolved to date in Stifel's favor.

In December 2009, a FINRA panel ordered Wells to pay Stifel \$1.1 million in legal costs for its defense of a raiding claim involving four Edwards advisers in South Carolina. In May 2010, another panel ordered Wells Fargo to pay \$633,000 in legal costs for a claim involving advisers in California.

Kruszewski said Wells has not made payment in either decision while his company has made good on the payment due in the latest FINRA decision.

The Wells spokeswoman said the company has not paid because the decisions are being appealed.

LIFEBOAT DEFENSE

The most recent case centered on alleged raids of some Texas-based Edwards branches. Wells Fargo sought \$12 million in actual damages and \$24 million in punitive damages. The FINRA panel ordered Stifel to pay only \$166,964 in actual damages.

The two companies were ordered to split the \$82,000 hearing fee, equivalent to

about a quarter of the Wells award.

The panel's chairman said Stifel's winning argument was "a textbook example of the Lifeboat Defense." The basis of such a defense is that the advisers were planning to leave the firm anyway and Stifel was simply offering them a home, said Thomas Lewis, a lawyer with Lawrenceville, New Jersey-based Stark & Stark who was not involved in this case.

Several other raiding claims by Wells against Stifel remain in arbitration, Kruszewski said.