Judge Dismisses Investor Lawsuit over Market Losses.

Source: Knight Ridder/Tribune Business News

Publication Date: 07/02/2003

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Jul. 2--A federal judge has dismissed a lawsuit by investors trying to blame Wall Street brokerage firms for their Internet-era stock losses, saying the investors knew full well the stock market was a "freewheeling casino."

Judge Milton Pollack was one of two New York federal judges this week to dismiss lawsuits against four Wall Street firms that contended that investors' stock-market losses were caused by the firms' biased stock research. The decisions may make it harder for large groups of investors to sue over the widely reported Internet bubble abuses by brokerage analysts who issued overly optimistic ratings on certain companies.

The suits had alleged that the banks' research analysts defrauded investors during the Internet bubble by urging them to buy stocks of companies the analysts didn't really believe were good investments. The analysts did so, investors alleged, because they wanted to share in lucrative investment-banking fees from the companies whose stocks they were analyzing.

In dismissing a lawsuit against Merrill Lynch and its onetime Internet analyst Henry Blodget, Pollack said investors who lost money were "high-risk speculators" who "now hope to twist the federal securities laws into a scheme of cost-free speculators' insurance."

He said the investors hadn't shown that they actually relied on the allegedly false investment research, or even that they were Merrill customers.

Investors had hoped that such lawsuits would be easier to file and win after state and industry regulators finalized a $1.4 billion settlement earlier this year with ten major Wall Street firms over the issue of biased research. As part of the settlement, regulators released damaging documents, including internal e-mails and other documents, that revealed that many analysts considered stocks they rated "buy" as little more than "crap" or "toast."

But in the Merrill case, the judge said that the mere existence of allegedly biased investment research isn't enough to prove a "fraud on the market" -- the legal doctrine investors had hoped to use. Instead, he said the investors failed to prove that Merrill and Blodget caused their losses.

"What this judge in effect says is that plaintiffs who present themselves before his court and simply rant that 'We invested money; they told lies, and then we lost money' " won't be permitted to sue, said Joseph Grundfest, a securities law professor at Stanford University.

The Merrill Lynch lawsuit had centered on allegedly biased research on two companies, 24/7 Real Media, based in New York, and Interliant of Purchase, N.Y. The lawsuit against the three other investment banks -- Goldman Sachs, Credit Suisse First Boston and Morgan Stanley -- centered on allegedly biased research on Covad Communications Group of Santa Clara.

Some attorneys for investors said the dismissals could make it harder for large groups of investors to collect damages on the grounds that tainted investment research caused a corrupt environment for investors. There are 25 similar lawsuits pending before Judge Pollack, for instance.

However, investor lawyers said that, on a case by case basis, some investors who can prove in court or in arbitration that they relied on biased research and lost money might still be able to recoup losses.

"This will probably hurt the class actions the most, because they are probably focused in New York" said Cary Lapidus, a lawyer who represents investors in such suits. "But there are individual lawsuits and arbitrations all over the country."

Lapidus said that some arbitrators, who are hired by stock exchanges to hear disputes against brokerage firms, are willing to consider the e-mail evidence released in the $1.4 billion settlement in deciding whether to award investors damages.

In his dismissal, Pollack said it would be unfair to "lay the blame for the enormous Internet bubble solely at the feet of a single actor, Merrill Lynch." He said federal securities laws penalize those who

issue false statements of facts, not opinions.

"We're pleased with the decision and that the judge accepted our arguments," Merrill spokesman Mark Herr said.

In the other case against Goldman, Credit Suisse and Morgan Stanley, U.S. District Judge Harold Baer said that, although investors had shown that analysts had conflicts of interests that might have tainted their research, they hadn't proved that they "actually had a less-optimistic view of Covad," than those expressed in their research reports.

Steven Toll, who represents investors in the Merrill case, said the plaintiffs would either appeal or ask Pollack to reconsider his ruling.

"It's almost inconceivable that Merrill Lynch could have been dismissed," he said in an interview, citing the firm's participation in the $1.4 billion settlement.

"These plaintiffs were not speculators," he said.

Suits against analysts at other firms, including Lehman Brothers Inc. and Citigroup Inc.'s Salomon Smith Barney, now known as Citigroup Global Markets Inc., are pending before other judges in Manhattan and elsewhere. Most recently, U.S. District Judge Denise Cote refused to toss out a case that claimed Citigroup issued biased research about WorldCom Inc.

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