Ex-Morgan Stanley broker loses nearly $1M but gains 100K in Finra arb case

Panel finds adviser liable for balance on promissory note, but orders the wirehouse to pay for closing his branch

Aug 20, 2014 @ 12:16 pm

By Mason Braswell

A former Morgan Stanley broker was ordered to repay almost $1 million in a promissory note case but managed to eke out a small victory in an unusual twist.

While an arbitration panel held Tomas Lenze liable for nearly the entire remaining loan balance of around $865,000 plus interest, it also hit Morgan Stanley with $100,000 in damages for closing his Sun Valley, Idaho, office.

It was a small and rare victory as brokers lose in 90% of the promissory note cases, according to an analysis by Securities Arbitration Commentator Inc., an award research service.

"It's absolutely rare," said Mr. Lenze's attorney, Carl Carlson of Tousley Brain Stephens. "You consistently see counterclaims raised by the broker alleging breach of contract, or bad faith, or things alleging problems with the firm, but they rarely make a difference."

*(See also: **Finra panel smacks Morgan Stanley with $4.5M arbitration award**)*

Promissory note cases, which usually arise when a broker leaves a firm before the full amount of deferred compensation or a recruiting bonus has vested, are the most commonly adjudicated complaint in Finra's arbitration forum, accounting for almost a third of all claims.

In this case, Morgan Stanley filed a claim against Mr. Lenze when he left in 2012 to move to Wells Fargo Advisors. He had been at Morgan Stanley only five years, which is around half the time it takes for an average recruiting bonus to vest. Such offers can run as high as two or three times a broker's annual revenue.

The firm sought to recoup the unvested amount of nearly $900,000, plus another $65,000 performance bonus Mr. Lenze was paid as deferred compensation, also subject to vesting requirements, according to Mr. Carlson.

In the end, the panel awarded $801,044 of the $867,918 initially requested in addition to almost two years' interest at 5.25% and another $65,043 on the performance bonus.

“The panel pretty much granted everything we wanted other than the $100,000 on the counter claim,” said an attorney who represented Morgan Stanley, Trent Latta of McDougald & Cohen PS.

Mr. Carlson said that the counterclaim against Morgan Stanley rested on the notion that Morgan Stanley had promised Mr. Lenze his own office to serve clients in Sun Valley.

Morgan Stanley established a Sun Valley office in 2007 within a year of Mr. Lenze's joining the firm, but then shut it down in 2012, according to Mr. Carlson.

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A Morgan Stanley spokeswoman, Christine Jockle, declined to comment.

Mr. Carlson declined to say whether Mr. Lenze had accepted a recruiting bonus to move to Wells Fargo Advisors in 2012.

Mr. Lenze declined to comment, citing policies at Wells Fargo that prevented him from speaking to the press without authorization.