

Lawyers accuse state regulators of mishandling broker fraud case

By JOSH FUNK / The Associated Press
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OMAHA — The lawyers representing more than 130 aggrieved investors from southeast Nebraska and western Iowa say state regulators mishandled the situation and might have prevented more than \$20 million in losses.

Dozens of the investors have filed a lawsuit against a stockbroker's former employer, and other investors who are barred from suing have filed arbitration claims seeking damages through the National Association of Securities Dealers.

Two other lawsuits have also been filed by investors who say their Nebraska City brokers improperly sold them risky investments in several interrelated Florida companies.

Jack Herstein with the Nebraska Department of Banking and Finance said he could not comment on the investigation of the broker at the center of the lawsuits, Rebecca Engle. But the department said it restricted her securities activities last August and she is no longer a broker.

Engle's attorney said the allegations against her are misleading and in many cases inaccurate.

Herstein declined to respond to criticisms of his investigation made by Lincoln lawyer J.L. Spray on Friday.

"The Department of Banking has moved at the speed of a glacier in this case and are failing Nebraska, western Iowa and other victims of these actions," Spray said.

Most of the investors were nearing retirement age or already retired when they got involved with Engle, so they wanted conservative, stable investments with little risk. They say Engle instead invested their money in high-risk enterprises and never fully explained the risks.

Another elderly investor, Mary D. Yearsley, says she lost about \$55,000 of her retirement money by investing in Royal Palm and American Capital Corp. securities that she said Engle encouraged her to buy and assured her were safe investments.

Yearsley said she contacted the state Department of Banking and Finance about eight months ago when she started to suspect they were in fact highly risky.

Yearsley, a widower who says she had to change her lifestyle because of the financial loss, believes the charismatic broker took advantage of their relationship.

"I trusted her with my life," she said. "She was like my daughter. I couldn't imagine her ever doing anything to hurt me."

Engle and the other brokers all worked with each other in Nebraska City at times between 2000 and 2007. The brokers were affiliated with at least three different companies — Capital Growth Financial LLC, Wachovia Securities LLC and VSR Financial Services Inc. — during those years. Those three companies are listed in the arbitration claim.

The other brokers listed in the arbitration order are former Nebraska football player Brian Schuster, Peter Lahti and Paula Turner, who all worked with Engle at some point.

Most of the investors involved in the arbitration and the lawsuit lost money investing in Royal Palm and American Capital Corp. Those two Florida companies have both been bought by PrimEdge Inc., and Schuster is the president and chief executive of PrimEdge.

Engle's lawyer, Martin Berliner, said his client didn't mislead the investors because she believed in those Florida companies and invested between \$500,000 and \$600,000 of her own money in them.

"Ms. Engle has more invested in Royal Palm and its successors than any other investor," said Berliner, who is based in Denver.

Berliner said most of the investors had worked with Engle for years and trusted her. He also said most of them had significant financial resources and could tolerate investing some money in risky investments.

"They were people who were fully capable of making informed investment decisions," Berliner said.

Engle is ill and getting treatment outside of Nebraska, Berliner said, but he would not say where she is living.

Spray has said he has documents detailing a series of complaints about Engle's conduct while she worked at Kirkpatrick Pettis as well as letters from one of the firm's lawyers stating that Engle had been fired, not laid off.

But instead of disclosing that Rebecca Engle had been fired, Kirkpatrick Pettis told regulators that she was discharged as part of a reduction in force at the company. At that time, Kirkpatrick Pettis was owned by Mutual of Omaha.

That allowed Engle to tell investors she left the company because Kirkpatrick Pettis decided to close its Nebraska City office, and she was able to land several other financial adviser jobs and keep many of her clients.

Associated Press Writer Nate Jenkins in Lincoln, Neb., contributed to this report.
