

BUSINESS

Allstate's suit against Ameriprise more about swiping data than big-buck producers

By NEAL ST. ANTHONY, STAR TRIBUNE (November 04, 2017 - 2:00 PM)

The financial services industry, particularly the securities-brokerage trade, has a less-than-storied history of growing business by poaching successful financial advisers.

Big producers are lured with bonuses, or forgivable loans, that total up to two years' worth of an adviser's past commissions and fees that can total six to seven figures.

The recent Allstate Insurance suit against Minneapolis-based Ameriprise Financial (AMP), however, is more about alleged theft of confidential client and marketing information, according to securities industry lawyers and legal coverage.

"Specifically, Ameriprise is instructing Allstate Life Insurance Company 'Exclusive Financial Specialists' [EFS] to turn over Allstate ... confidential information to Ameriprise and then use the confidential information to unlawfully solicit [Allstate] customers on behalf of Ameriprise," according to the Allstate suit, filed in federal court.

Ameriprise is contesting the lawsuit. Run for 15-plus years by CEO Jim Cracchiolo, a former American Express executive, the company has mushroomed into a global investment and insurance conglomerate.

- Allstate alleges Ameriprise is stealing agents, client info
- Minnesota SBA lenders had another banner year in fiscal 2017

AMP earned \$1.3 billion last year working through a network of 10,000 financial advisers serving 2 million clients. It's also been a top-flight investment. The stock has increased in value by more than four times since 2009, the end of the last recession.

Allstate, also a financial behemoth, sued Ameriprise after the company lured an unspecified number of Allstate employees in several states.

The suit indicates that Ameriprise is as much after the competitive data as agents. The so-called Exclusive Financial Specialists that Allstate says Ameriprise particularly covets are the information gatekeepers who work with the financial-product peddlers.

"These folks were not salespeople," said Ben Anderson, general counsel with the former Dain Rauscher securities firm and a Twin Cities independent securities attorney who focuses on regulatory matters. "[They] had access to the most sensitive confidential

information regarding Allstate's sales staff, and their production, client identity, client assets, and products purchased by clients.

"Allstate's complaint against Ameriprise includes an allegation that Ameriprise violated the [U.S.] Defend Trade Secrets Act [enacted in 2016]."

This law, an upgrade of earlier provisions, was designed to protect companies from data theft.

Allstate alleges that, in obtaining key people and data, Ameriprise accessed product and policyholder information that violates law and the terms of Allstate's confidentiality agreements with its agents. In the past, securities firms usually arbitrated these matters privately. Allstate has gone public.

In its response, Ameriprise said it doesn't condone stealing information, that it lacks sufficient information to respond to certain allegations and that the so-called confidential information claimed by Allstate, in some cases, is not confidential at all. A spokeswoman said 2,000 advisers from elsewhere have joined Ameriprise in recent years because of its strong reputation, products and performance.

"Financial advisers are allowed to switch firms, and movement across the industry is common," Ameriprise spokeswoman Kathleen McClung said. "We strongly disagree with the allegations in the [Allstate] lawsuit. We believe we complied with the law and industry recruiting norms, and we plan to defend ourselves vigorously."

Several months ago Investment News, a national industry publication, reported that Ameriprise had to pay a small firm, Hanson McClain Advisors, \$1.5 million for "using client information misappropriated by a former employee to solicit business," according to a California trial court judge.

Sacramento, Calif.-based Hanson McClain sued the former adviser, Ameriprise and a local Ameriprise branch manager in 2014. The California judge found the former employee breached his contract with Hanson McClain and that the defendants had violated fair-business practices law and swiped trade secrets.

"We spent over \$2 million to get a judge to say we're right," Scott Hanson, co-founder of Hanson McClain told Investment News. "Big companies shouldn't get to operate under different rules."

This big-vs.-big legal fracas could be interesting, perhaps precedent setting.

Anderson also said Allstate successfully sued a former employee last year for leaving Allstate, using the trade secrets act.

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