



Loss Scenario—ForeFront for Investment Advisers

In today's dynamic market, the slightest market adjustment can spawn litigation. Even the most diligent and respected asset managers are susceptible to claims from a wide variety of sources, including dissatisfied clients and stockholders, state and federal agencies, and even their own employees.

Not the Client's Intention

Cause of action: Failure to follow investment guidelines

Number of employees: Under 25

Assets under management: Approximately \$1.5 billion

DESCRIPTION OF EVENT

An investment adviser had discretionary authority over approximately \$75 million of the client's assets. The employee in charge of the account believed that the client intended that the account be used as a hedging fund for the rest of the client's investments and therefore took a substantial short position in U.S. Treasury securities. As interest rates rose, the account's value declined by two-thirds in one month. The client sued the adviser and its directors and officers, claiming that he had directed the adviser to invest the account conservatively and had been led to believe that the funds were invested in Treasury bonds, thereby reducing the risk of loss.

RESOLUTION

The claim settled for more than \$20 million.



Chubb Group of Insurance Companies

Warren, NJ 07059

www.chubb.com

Loss scenarios are hypothetical in nature and for illustrative purposes only. Whether or not or to what extent a particular loss is covered depends on the facts and circumstances of the loss and the terms, conditions, and endorsements of the policy as issued. It is impossible to state in the abstract whether the policy would necessarily provide coverage in any given situation. Consult your agent, broker, or other expert.

Form 17-01-0135 (Rev. 1/05)





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Failure to Make Contributions

Cause of action: Suitability of investments

Number of employees: Under 20

Assets under management: Approximately \$1 billion

DESCRIPTION OF EVENT

A claimant alleged that her adviser failed to effectuate any contributions to her retirement plans over a four-year period and that she did not obtain the employer match that was available for these periods. The claimant also alleged that the mutual funds in her account were not actively managed and that several investments selected by the adviser were illiquid and inappropriate given the claimant's time horizon and risk tolerance. She sought unspecified monetary damages.

RESOLUTION

The case was settled for nearly \$100,000.



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Unauthorized Trade

Cause of action: Negligence

Number of employees: Under 50

Assets under management: Approximately \$7 billion

DESCRIPTION OF EVENT

A claimant alleged that several unauthorized trades were processed from his accounts through the adviser totaling over \$250,000. The claimant sought to have his accounts reinstated as if the unauthorized transactions did not occur. Additionally, the claimant sought the increase that his stocks would have earned during the rise in the market during that period.

RESOLUTION

The claim settled out of court for over \$200,000.



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Contract Stipulation Overlooked

Cause of action: Failure to adhere to contract provisions

Number of employees: Under 20

Assets under management: Approximately \$400 million

DESCRIPTION OF EVENT

An investment adviser managed a large public pension retirement fund. The fund manager sent a letter to the adviser stating that the adviser's contract was being terminated at the end of the business day and instructing the adviser to cease trading at that time. That day the adviser liquidated the portfolio of thinly traded securities and put approximately 75% of the funds in cash or cash equivalents. The advisory contract contained a stipulation that the adviser must advise the client if more than 25% of the fund's assets are cash, but the adviser did not advise the fund manager for several days. During that time, the stock portfolio, had it remained intact, would have increased in value by more than \$10 million. The fund sued the adviser, alleging failure to adhere to contract provisions.

RESOLUTION

The case settled for over \$8 million.



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Stock Bounces the Wrong Way

Cause of action: Negligence/suitability of investments

Number of employees: Under 10

Assets under management: Approximately \$125 million

DESCRIPTION OF EVENT

An investor placed over \$100,000 of assets with an investment advisory firm. The adviser purchased a certain distressed stock. The investor questioned the investment, but the adviser assured him that this stock always “bounced” back and produced positive returns for his clients. The investor lost over \$50,000 in the investment. The investor sued alleging that the adviser was negligent, that the investments were not suitable, misrepresentation, breach of fiduciary duty, violation of state and federal securities laws, violation of NASD Rules of Fair Practice, breach of contract, and breach of implied covenant of good faith and fair dealing.

RESOLUTION

The claim settled for nearly \$50,000.



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