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A Broker's Empty Promise, a Retiree's Shattered Dream

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NORMAN HUFF spent 30 years working jackhammers, backhoes and other heavy construction equipment at the East Ohio Gas Company. When it offered him an early retirement package in April 2000, he was tempted but nervous: he had $386,000 in his retirement account, mostly in company stock, but he and his wife, Wilma, worried that this would not be enough if he were to quit his $40,000-a-year job.

Then Mr. Huff was invited to a retirement seminar at the Brookside Country Club near his home in rural Dalton, Ohio. Michael G. Dobbins, a vice president and broker at a local branch of Prudential Securities, addressed 50 to 75 prospective retirees from East Ohio Gas, suggesting that they could accept their company's buyout packages, invest their savings in a portfolio of stocks he favored and live comfortably on the earnings.

"He told me I'd be a fool not to take the buyout," Mr. Huff said. "He kept on stressing to us that we needed to get that stock I had accumulated over 30 years sold and make that money work for us. The amount of money we had, he said, in a matter of a few years we could possibly be millionaires."

Today, the Huffs are far from millionaires. In fact, they are worse off than they were when they met Mr. Dobbins. By April 2003, their retirement account had lost 65 percent of its value. Even though Mr. Huff and his wife said they had emphasized that keeping their principal safe was paramount, Mr. Dobbins invested their money in shares of technology, health care and financial services companies, and in equity mutual funds that carried sales charges, or loads.

With their savings down to around $100,000, Mr. Huff, 57, had to go back to work as a security guard at a local jam factory. He earns $6.75 an hour, well below the more than $20 an hour he was making when he took the buyout from East Ohio Gas.

The Huffs filed an arbitration case against Mr. Dobbins and Prudential a year ago, as is customary in disputes between securities firms and their clients. Last month, an arbitration panel from NASD, formerly the National Association of Securities Dealers, found both defendants liable for failure to supervise, breach of fiduciary duty and fraud. The panel awarded the Huffs what they had lost - approximately $225,000 - plus lawyers' fees of $74,000. In an unusual twist, it also required that the defendants take back the securities that Mr. Dobbins had sold to the Huffs, including shares of Nortel Networks, WorldCom, America Online and Cisco Systems.

Jim Gorman, a spokesman for Prudential Financial, which owned Prudential Securities at the time the investments were made, said the firm disagreed with the arbitrators' findings. Prudential Securities became part of Wachovia Securities last summer. Wachovia Securities said Mr. Dobbins would not be available for an interview. A lawyer for Mr. Dobbins also said the broker would not comment.

While the outcome of the case was felicitous for the Huffs, the circumstances surrounding their losses are becoming disturbingly common, some securities lawyers say. Looking to collect assets - and the fees they generate - stockbrokers have found people considering retirement to be receptive and trusting targets. Some companies even provide lists of prospective retirees to local brokerage firms.

As long as workers remain at their jobs, their company retirement savings stay out of the reach of stockbrokers. Thus, brokers have an incentive to recommend that workers accept early retirement offers. And like the Huffs, many investors, believing brokers' promises of stock market riches, have lost both their incomes and much of their savings.

THE decision about when you retire and what you do with your money at retirement is the biggest financial decision most people will ever make in their life, and it will determine their quality of life for years to come," said Barbara Roper, director of investor protection at the Consumer Federation of America. "As a result, it is a point at which people are as financially vulnerable as they are ever going to be and the point at which they are the most attractive financial target."

Jacob Zamansky, a securities lawyer in New York, represented the Huffs in their case against Prudential Securities. He has also filed an arbitration case on behalf of 20 former employees at East Ohio Gas and their spouses who lost $2.3 million investing with Mr. Dobbins. Mr. Zamansky said retirees from at least eight major companies with operations in the Midwest, including Detroit Diesel, MeadWestvaco, Frito-Lay and Rubbermaid had told him stories similar to that of the Huffs. All the investors were placed in fee-based accounts, with annual charges of at least 1 percent going to the brokerage firm.

"Major Wall Street firms have targeted and preyed on unsophisticated 'buy and hold' Ohio investors, placing them in inappropriate fee-based accounts that generated huge annual revenue streams for the brokers," Mr. Zamansky said. "They put their own financial interests ahead of their customers'."

These types of accounts are coming under increased scrutiny by the NASD, the largest self-regulatory organization in the securities industry. In a recent notice to members, the NASD warned that it could be a violation of industry rules to put a customer in a fee-based account that costs more than an alternative and noted that such accounts must be supervised to determine appropriateness.

There appears to have been little, if any, supervision over Mr. Dobbins at Prudential. Mr. Zamansky said that not one document was submitted in the arbitration to indicate any supervision over the broker and that Prudential was unable to produce any supervisor or branch manager to testify at the hearing.

Prudential's spokesman declined to comment further on Mr. Dobbins, other than to say that the firm planned to defend the cases filed against him and the firm.

Mr. Dobbins, who worked out of a branch of Prudential in Akron, Ohio, called the Dobbins Group, was the only broker advising his 1,300 clients. But he had as many as seven sales assistants helping him with administrative details. In his testimony before the arbitrators, he said that he had met many of his customers through retirement seminars he had led at local clubs or restaurants. He said that he counted former workers at AT&T, the Goodyear Tire and Rubber Company, Loral Space and Communications and the AES Corporation as customers, and that his clients generated annual revenue of more than $2 million for the firm.

Mr. Dobbins testified that he put many of his clients into a portfolio of stocks in three sectors - financial services, technology and health care - that he said would benefit from demographic shifts associated with the aging of baby boomers.

Mr. and Mrs. Huff said they told Mr. Dobbins that they knew nothing about the stock market and that he told them he taught investment classes nearby, at Kent State University. "We were really in awe," Mrs. Huff said.

When Mr. Dobbins came to the Huffs' house in August 2000 to open their account, he described the risk that they would be taking as small, holding up his thumb and forefinger an inch apart, Mrs. Huff said.

Two months later, the Huffs' portfolio had lost $20,000. Whenever the Huffs asked whether they should be doing something about their declining portfolio, they said Mr. Dobbins told them to stay the course.

By October 2001, their account had lost more than half its value. In that month's brokerage statement, the stated risk tolerance for their account inexplicably changed from moderate to moderately aggressive. They had not instructed the broker to make that switch.

Fee-based accounts, like those held by the Huffs, are often regarded as beneficial to investors because they eliminate the temptation to generate commissions by excessive trading. But for investors who trade infrequently, such accounts can be extremely costly, with management fees deducted yearly. Of course, a broker has an incentive to generate gains for clients in fee-based accounts because the broker then shares in the profits. But fee-based accounts can also prompt brokers to care more about bringing in new accounts than about managing older ones, some securities lawyers say.

Wilfred DeCoste, 60, of Louisville, Ohio, was another client of Mr. Dobbins. Mr. DeCoste worked at Detroit Diesel, a spinoff of General Motors, for 32 years. In late 1999, Detroit Diesel began offering buyouts to some workers.

Mr. DeCoste was making $80,000 a year and was not planning to take early retirement, he said, until he attended a seminar at Kent State sponsored by Prudential and Mr. Dobbins.

"They were pumping you up that we were all set and had plenty of money to retire," Mr. DeCoste recalled. In September 2000, he and his wife, Marjorie, gave Mr. Dobbins $340,000 in cash they had saved.

The couple's money went into the three-sector portfolio, and by Christmas 2002, its value had dropped to $80,000. They sued Prudential and Mr. Dobbins and are awaiting an arbitration date. "My wife works as a cook at a restaurant, and she has got no look at retirement," Mr. DeCoste said. He went back to work teaching electrical courses at a local college.

Brokers at other firms also trolled for retirees. One at Merrill Lynch, for example, told Martha J. Taylor of Burbank, Ohio, that the $410,000 she had saved would be more than enough for a comfortable retirement, she said. So, in August 2000, she left her $40,000-a-year job as a truck driver for Rubbermaid, where she had worked for more than 27 years.

She met the broker, Joel Cessna, at a seminar he sponsored at a nearby banquet hall. "I'd gone through a divorce, and I was just trying to get back on my feet from that," she said. "This was all the money I had. He said: 'Don't you worry. You should never have to work another day in your life.' "

Ms. Taylor said Mr. Cessna told her that she could earn enough money in the stock market to withdraw as much as $3,000 a month. He put 85 percent of her money into technology and Internet stocks and stock mutual funds. The portfolio began to decline almost immediately.

When Ms. Taylor called to ask what she should do about the losses, she said Mr. Cessna told her that the stocks would rebound. But in April 2002, she was stunned by a call from Mr. Cessna. "He said, 'I hate to tell you, Martha, but you're going to run out of money,' " she said. By the time she moved her account, it held $38,000.

Now Ms. Taylor, who is 50, earns $22,000 a year driving a school bus for the Wooster city schools. She has sued Merrill Lynch and Mr. Cessna; her arbitration is scheduled for October. The New York Stock Exchange is also investigating Mr. Cessna.

Merrill Lynch declined to make Mr. Cessna available. A Merrill Lynch spokesman, Mark Herr, said, "The use of seminars is well respected, used throughout the industry and extremely beneficial to clients and prospective clients." Mr. Herr declined to comment on Ms. Taylor's case other than to say that the facts and circumstances surrounding her claim are unique to Ms. Taylor.

While it may seem surprising that people would consider retiring with relatively small amounts saved, Ms. Roper of the Consumer Federation said, "Americans tend to have very unrealistic expectations about when they can retire."

Mr. Zamansky said that such horror stories show how important it is for investors to know all their options. "These cases show the real need for investor education which would help people like these protect themselves against unscrupulous brokers," he said.

Consider the case of Gary D. Johnson, of Canal Fulton, Ohio, who worked at East Ohio Gas for 15 years as a compressor operator. For years, he and his wife, Lola, saved $600 a month to buy the company's stock. In 2000, however, he took the company up on its buyout offer and handed $240,000 in company stock to Mr. Dobbins at Prudential. "I told him I wanted to give it to him and not touch it," Mr. Johnson recalled. "He said in five years you'll have $500,000 and in 10 years you'll be a millionaire."

Mr. Dobbins also said he would throw in a $75,000 life insurance policy if Mr. Johnson opened an account, he said. But when ovarian cancer was diagnosed in his wife in November 2002, Mr. Dobbins said he knew nothing about such a policy, Mr. Johnson said.

Over three years, the Johnsons lost two-thirds of their retirement savings. Brokerage statements show that midway through his association with Mr. Dobbins, the risk tolerance listed for Mr. Johnson was changed from moderate to moderately aggressive, similar to what had happened to the Huffs.

Mr. Johnson, 60, is a plaintiff in the group arbitration against Prudential. He has been unable to find work since he retired from East Ohio Gas. "I've been trying to get a job as a janitor with the Northwest school system," near Canton, Ohio, he said. "But I've had six interviews, and I think they figure I'm too old."