



Portfolio Media, Inc. | 860 Broadway, 6th Floor | New York, NY 10003 | www.law360.com  
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

## JPMorgan Pays \$150M To Settle Pension Funds' ERISA Claims

By **Sindhu Sundar**

Law360, New York (March 16, 2012, 10:54 PM ET) -- JPMorgan Chase Bank NA on Friday agreed to pay \$150 million to settle a consolidated class action brought by three retirement funds accusing the bank of botching their investments in structured investment vehicle Sigma Finance Inc., which collapsed in 2008.

In a motion filed in New York federal court, the parties, including plaintiffs American Federation of Television & Radio Artists Retirement Fund, Manhattan & Bronx Surface Transit Operating Authority Pension Plan and the Imperial County Employees' Retirement System, sought preliminary approval for the settlement after previously indicating in February that a settlement had been reached, without disclosing its terms at the time.

"Lead counsel participated in numerous discussions and arms-length negotiations with [JPMorgan's] bank counsel as well as formal mediation sessions with respect to a compromise ... that is in the best interests of the class as it provides for meaningful and certain recovery," the parties said in a memorandum supporting their motion to approve the settlement.

The settlement would resolve a dispute that began in January 2009, when AFTRA, which had participated in the bank's securities lending program, filed a class action accusing it of violating the Employee Retirement Income Security Act by squandering their investments by purchasing Sigma medium-term notes that the bank had claimed could provide safe and stable returns but did not.

Retirement funds ICERS and MaBSTOA filed similar complaints in May 2009 that were consolidated with the AFTRA suit.

The plaintiffs claimed that the bank had violated its fiduciary duty to prudently manage plan assets by investing in unsuitable investments that it allegedly did not adequately monitor, according to the memorandum.

The funds also said that JPMorgan had predicted Sigma's collapse, but then selected the best assets in the issuer's portfolio for itself, depleted the quality of Sigma's assets and reaped nearly \$2 billion in profits for itself while leaving the class' notes virtually worthless.

The plaintiffs argued that a fiduciary bank should be barred from knowingly profiting for itself at the direct expense of its beneficiaries.

But U.S. District Judge Shira Scheindlin, who granted partial summary judgment to JPMorgan in August, said that JPMorgan was not acting in a fiduciary capacity when it extended billions of dollars of repurchase agreement financing to Sigma, selected its assets

and seized the collateral when Sigma default.

The bank did not use the assets of the plaintiffs' plans or breach any duty of loyalty to its clients — instead it acted as a creditor conducting a transaction with a third party that affected the plans, Judge Scheindlin ruled.

The plaintiffs are represented by Kessler Topaz Meltzer & Check LLP, Nix Patterson & Roach LLP and Dealy & Silberstein LLP, among others.

JPMorgan is represented by Paul Weiss Rifkind Wharton & Garrison LLP.

The case is Board Of Trustees Of The AFTRA Retirement Fund et al. v. JPMorgan Chase Bank NA, case number 1:09-cv-00686, in the U.S. District Court for the Southern District of New York.

--Additional reporting by Martin Bricketto and Erin Coe. Editing by Andrew Park.

All Content © 2003-2013, Portfolio Media, Inc.