Securities

TradeStation executives come up short in jury trial

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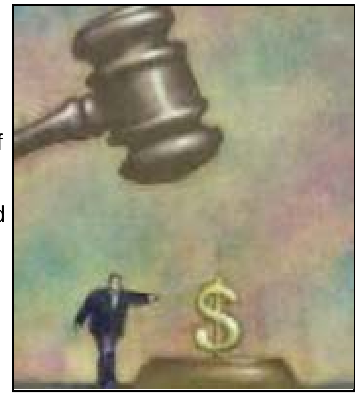

A Miami jury awarded nothing late today in a lawsuit brought by two former TradeStation executives who claimed they were cheated out of valuable stock after they were forced to resign from the Plantation-based online securities broker in 2001.

A two-week jury trial in Miami-Dade Circuit Court pitted former company president Steve zum Tobel and former vice president Farshid Tafazzoli against TradeStation, an upstart competitor of TD Ameritrade and E*Trade.

“Decent people were being sued for something they should never have been sued for,” said lead defense attorney Eugene Stearns, a founder of Stearns Weaver Miller Weissler Alhadeff & Sitterson in Miami. He said “frivolous is too kind a word” for the lawsuit.

Before the verdict, Circuit Judge Gill S. Freeman had ruled the plaintiffs could seek punitive damages, but the jury’s decision against compensatory damages eliminated that phase of the trial.

Tafazzoli and zum Tobel claimed they sold more than 3.1 million TradeStation shares at $1.40 to $1.45 per share to the company in 2002 as part of a negotiated corporate buyback.

The former executives claim they were forced to resign in July 2001 and were barred by the board of directors from buying more company stock.

They maintained no one in the company disclosed their stock was worth several times more than they received under a clearing agreement that was the centerpiece of the trial.

TradeStation significantly bumped up its profits in 2002 because of clearing agreements it signed with Bear Stearns and the defunct Refco in December 2001 and February 2002, said lead plaintiff attorney David Solomon of Coughlin Stoia Geller Rudman & Robbins in San Diego. He was not available for comment shortly after the verdict was announced.

The former executives asked for $40 million in compensatory damages in the lawsuit filed in August 2003.

The online brokerage, chief financial officer David Fleischman, vice president Marc Stone and founding brothers Ralph and Bill Cruz were defendants in the lawsuit.

Solomon told jurors in opening statements that the case was “about anger, betrayal and cheating.”

Stearns countered that the plaintiffs wanted to divest themselves of TradeStation stock and were either aware of the clearing agreements or shut their eyes to them as they sold off their shares.

The lawsuit claimed violations of the Florida Securities and Investor Protection Act, common law fraud and breach of fiduciary duty and sought either rescission of the share sales or compensatory damages.

TradeStation (Nasdaq: TRAD) has enjoyed strong growth since 2002, but has struggled recently in the face of mounting competition.

Brokerage commissions grew over time as TradeStation expanded the types of assets it handles to include equities, futures, options and most recently foreign exchange trades.

Founded in 1982 as a technology firm, TradeStation charges clients for subscriptions to an online trading platform that helps them create and execute their own rules-based investment strategies. It has recently tried to build on its core market of individual traders by targeting institutional investors and opening offices in global money centers such as Chicago and London.

TradeStation shares closed today at $10.62. The stock’s one-year price range has been $9.41 to $14.87.

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