
Goldman Sachs loses appeal of \$20.6 mln Bayou award

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By Nate Raymond

NEW YORK, July 3 (Reuters) - Goldman Sachs Group Inc lost an appeal on Tuesday against a \$20.6 million arbitration award won by creditors of bankrupt hedge fund Bayou Group.

Goldman had argued the arbitration panel disregarded the law in handing Bayou investors a win, an argument rejected by the 2nd U.S. Circuit Court of Appeals.

"The manifest disregard standard is, by design, exceedingly difficult to satisfy, and Goldman has not satisfied it in this case," a three-judge panel of the appeals court said.

The appeal had been closely watched by Wall Street firms, who worried that upholding the decision could raise the legal standards placed on clearing brokers such as Goldman.

The Securities Industry and Financial Markets Association argued a ruling for the Bayou creditors could force brokers to "analyze the huge volume of trading they process along with daily transfers of funds to determine if customers are engaged in wrong-doing."

Representatives for SIFMA did not respond to requests for comment. Tiffany Galvin, a spokeswoman for Goldman, declined comment.

John Rich, a lawyer for the official committee of unsecured Bayou creditors, said his clients are "gratified that they're getting closer to having some of their losses covered by this victory."

The case stemmed from the collapse of Bayou Group LLC, a hedge fund that turned out to be a Ponzi scheme.

In 2005, Samuel Israel and another Bayou Group executive pleaded guilty to criminal charges. The Bayou funds filed for Chapter 11 bankruptcy in May 2006.

In 2008, Bayou's unsecured creditors' committee filed an arbitration against Goldman, which as a clearing broker held accounts for Bayou. The creditors claimed Goldman failed to look into the alleged fraud and fraudulent transfers at the hedge fund.

The arbitration panel, under the Financial Industry Regulatory Authority, issued the \$20.6 million award in 2010 and Goldman turned to federal court in Manhattan to vacate it.

U.S. District Judge Jed Rakoff ruled against the bank in November 2010, saying it was the bank's choice to turn to arbitration. Arbitrators do not need to give their reasons for a decision and their rulings "are essentially unappealable," he said. He also criticized arbitration as slower and more expensive than its reputation suggests.

"(Goldman), having voluntarily chosen to avail itself of this wondrous alternative to the rule of reason, must suffer the consequences," Rakoff wrote at the time.

The case is Goldman Sachs Execution & Clearing, et al. v. The Official Unsecured Creditors' Committee of Bayou Group, LLC, U.S. Court of Appeals for the 2nd Circuit, 11-2446.

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