

Broker denied overtime sues Smith Barney

Plaintiff, firm at odds over legal pay requirements

By Diane E. Lewis, Globe Staff | May 12, 2006

A Massachusetts stockbroker filed a lawsuit yesterday in US District Court alleging that Citigroup Smith Barney failed to pay him overtime in violation of state and federal wage laws. Joseph P. Blood, 45, of Milton, said he routinely worked 70 to 80 hours per week from 1997, when he was hired by the company's Waltham office, to the day he quit the brokerage in March.

Blood said he was not given overtime pay, as he claims is required by the US Fair Labor Standards Act. Under that law, nonexempt employees must be paid time-and-a half after working more than 40 hours in a week.

Boston lawyer Shannon Liss-Riordan, who represents Blood, said her client typically began working at 7 a.m. and left the office at 9 p.m. on weekdays.

He also worked half-days on weekends, she said. "Financial consultants work a tremendous amount of hours," she said. "The impact on family life is huge."

Liss-Riordan said federal wage laws do not exempt financial consultants or brokers from overtime. "Everyone assumes that because brokers are highly paid, they should be exempt," she said. "But the whole purpose of the Fair Labor Standards Act was to discourage employers from having employees work long, oppressive hours. Exceptions have been carved out of the law, but brokers do not fall under any of those exceptions."

"We believe this suit to be without merit," said Katrina Clay, assistant vice president for media relations at Smith Barney. "Smith Barney is committed to fairness in its employment practices, and to compliance with all laws, including those related to compensation."

The law governing whether stockbrokers are exempt from overtime pay is complicated and has led to disputes.

Liss-Riordan said Blood's primary responsibility was to sell financial products such as stocks, bonds, and mutual funds.

He earned, on average, between \$50,000 and \$75,000 per year, depending on sales volume. In March, he quit to take a position with another brokerage.

Smith Barney has about 12,000 brokers who could be covered by the suit, Liss-Riordan said. Blood's lawsuit is among a string of cases filed in recent years against such big financial institutions as UBS, Morgan Stanley, and Merrill Lynch. Wachovia Securities has several pending cases in Connecticut, Pennsylvania, New Jersey, and New York.

Two years ago, a group of California brokers sued Morgan Stanley. That case, filed on behalf of 5,000 financial advisers, was settled in March for \$42.5 million.

In February, UBS in New York agreed to pay an estimated \$89 million to settle claims from many of its 7,500 brokers. About half of the settlement will go to brokers in California. In addition to overtime violations, brokers claimed that UBS had deducted money from their commissions to pay support staff. In 2005, meanwhile, New York-based Merrill Lynch & Co. settled an overtime class-action suit for close to \$37 million.

In 2004, the US Labor Department, reacting to mounting political and public pressure to revamp overtime rules, released new regulations that raised the salary levels below which workers would automatically qualify for overtime from \$155 a week to \$455, or \$23,660 per year.

The government proposed raising the overtime eligibility cap for salaried employees to \$100,000 per year, from \$65,000 in an earlier proposal.

The rule did not settle questions about overtime pay and stockbrokers, however.

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