

Money management company NorthPointe wins 5-year battle with insurer

By Chad Halcom

Troy money management firm NorthPointe Holdings LLC cleared about \$10.4 million after winning a nearly five-year court tussle with Columbus, Ohio-based Nationwide Mutual Insurance Company.

Judge Andrea Rocanelli of the Delaware state superior court in Wilmington found after a bench trial that the insurer and its subsidiaries Nationwide Emerging Managers LLC and Nationwide Corp. had committed breach of contract and fair dealing after the \$25 million sale of its stake in a mutual fund company to NorthPointe.

The 2009 lawsuit stems from an agreement for NorthPointe's employee partners to buy out the insurer's 65 percent stake in Northpointe Capital LLC, which managed seven investment funds worth more than \$500 million.

That deal closed in September 2007, for \$16 million cash and \$9 million in a note guaranteed by employee partners in NorthPointe, making NorthPointe the fund management company's sole owner.

But Nationwide had agreed to several conditions of the sale, including continuing to market and promote the NorthPointe funds and to preserve some ongoing business relationships.

Instead, NorthPointe alleged that Nationwide created a new and virtually identical variable insurance trust fund that competed with a similar fund managed by NorthPointe, but whose assets were held by Nationwide.

That happened without NorthPointe's knowledge, and Nationwide also created an artificially low fee structure for the new fund to lure large investors, according to Rocanelli's ruling. In July 2008, Nationwide also withdrew about \$260 million of assets from NorthPointe's fund, depositing \$135 million into its own fund the same day.

"Incredibly, Nationwide's stated reasoning (for merging the funds) was that NorthPointe had lost a substantial portion of its assets," the

judge's ruling states. "This was disingenuous at best and completely failed to acknowledge Nationwide's own role when it raided NorthPointe's fund to fund its own."

The judge found that NorthPointe was entitled to \$15.2 million in damages and termination fees, less a credit of about \$4.8 million for what NorthPointe still owes under the original 2007 sale agreement.

"I'm extremely happy, and we are all very gratified with the judge's decision," said Rodger Young, founder and senior partner at Farmington Hills-based Young & Associates and attorney for NorthPointe in the lawsuit. "Judge Rocanelli demonstrated a complete grasp of the case, and obviously understood the complexity of the issues extraordinarily well."



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Colm Connolly, a partner at Morgan, Lewis & Bockius LLP in Wilmington representing Nationwide, did not immediately return calls seeking comment on whether Nationwide will appeal the outcome.

Young said the insurer has 30 days from last week's ruling to make that decision.

Nationwide in court briefs contends it did include NorthPointe in some of its marketing efforts, that its executives had testified they had fiduciary duties to the funds' shareholders that they had to protect, and that its agreement with NorthPointe capped any prospective damages from litigation at \$3.5 million. ■