

MICHIGAN LAWYERS WEEKLY

Investment advisor wins five-year battle

Troy group asserted claim against insurer

By: Michigan Lawyers Weekly Staff in Verdicts & Settlements September 2, 2014

Troy-based NorthPointe Capital LLC, a boutique investment advisor, was awarded \$10,355,011 in damages and termination fees following a five-year legal battle with Columbus, Ohio-based Nationwide Mutual Insurance Co.

The ruling brings to a close a \$25 million case that originated from a June 2007 purchase agreement in which insurance giant Nationwide sold their interest in mutual fund manager NorthPointe — along with the right to receive the income generated by the continued management of seven Nationwide mutual funds, including the considerable Nationwide NVIT Mid Cap Growth Fund.

The suit alleged that Nationwide breached the contract and misrepresented the transaction, never having intended to uphold its terms.

In her ruling, Judge Andrea L. Rocanelli of the Superior Court of the State of Delaware, said: "Incredibly, Nationwide's stated reasoning for merging the funds was that NorthPointe had lost a substantial portion of its assets. This was disingenuous at best and completely failed to acknowledge Nationwide's own role when it raided NorthPointe's NVIT to fund the Nationwide Multi-Managed NVIT."

Rocanelli's opinion also outlined the impression left by the testimony of numerous Nationwide executives during the bench trial. "The court finds that high turn-over in key positions at Nationwide resulted in institutional incompetence."

NorthPointe's counsel argued that Nationwide had not only never intended to allow NorthPointe to manage the funds, but had actively planned and carried out the creation of a new multimanager NVIT mid cap growth fund to compete directly with the NVIT fund NorthPointe was managing.

Rocanelli determined that NorthPointe was entitled to \$15,186,381 in damages and termination fees, less a credit of approximately \$4.8 million for what NorthPointe owes under the original 2007 sale agreement. Total judgment amount is \$10,355,011.

Type of action: Breach of contract including breach of covenant of good faith and fair dealing

Name of case: *NorthPointe Holdings LLC v. Nationwide Emerging Managers LLC v. NorthPointe Capital LLC*

Court/Case no./Date: Superior Court of the State of Delaware; N09C-11-141 ALR; July 16, 2014

Tried before: Judge

Name of judge: Andrea Rocanelli

Judgment amount: \$10,355,011

Attorneys for plaintiff: Rodger D. Young, Jaye Quadrozzi (Farmington Hills); Bartholomew J. Dalton (Wilmington, Delaware)

Attorneys for defendant: Colm F. Connolly (Wilmington, Delaware); Jay H. Calvert Jr., Bahar Shariati, Jessica A. Stow (Philadelphia)

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