

SECURITIES LAW360

Portfolio Media, Inc. | 648 Broadway, Suite 200 | New York, NY 10012 | www.law360.com
Phone: +1 212 537 6331 | Fax: +1 212 537 6371 | customerservice@portfoliomedia.com

Regions Bank Moves La. Fraud Suit To U.S. Court

By **Marc Tracy**, marc.tracy@portfoliomedia.com

Portfolio Media, New York (July 11, 2008)

Regions Bank and an affiliate investment adviser have removed to federal court a pension system's suit that claims they fraudulently promoted a risky open-end fund as safe and allowed the fund to be devastated by last summer's subprime mortgage collapse.

The defendants, both owned by **Regions Financial Corp.**, filed a notice of removal Thursday in the U.S. District Court for the Middle District of Louisiana, transferring the suit there from Louisiana state court, where it was filed on June 12.

Louisiana's state-chartered Firefighters' Retirement System (FRS), which has over \$1 billion in assets, has accused Regions, Morgan Asset Management Inc. and an MAM senior investment advisor of soliciting the pension to invest in their Morgan Keegan High Income Fund despite the fund's being more risky than they had advertised.

"Defendants' representations concerning the safety and conservative and diversified nature of the fund and its suitability to meet the needs of FRS were false or misleading, omitted to make disclosures of material facts and risks, and thereby failed to present an accurate picture of the risks of investing in, and of maintaining an investment in, the fund," the complaint said.

Regions did not return a request for comment Friday.

According to FRS, despite the funds' self-imposed restrictions on investing in collateralized debt and collateralized mortgage obligations, the fund ended up with large positions in just such investment vehicles, which came crashing down during the subprime meltdown that began in the summer of 2007.

"In violation of the 15% limitation on illiquid investments in the fund's statements of additional information, by June 30, 2006, over 49% of values of the fund's holdings were illiquid; by June 30, over 59% were illiquid," the complaint said.

As of June 2007, over 50% of the fund's assets were mortgages, which flew in the face of the fund's own pledge not to invest more than 25% of its assets in the securities of companies in the same industry, according to the complaint.

"The defendants did not inform FRS of the fund's deviation from the aforementioned restrictions, nor of the material adverse risks that resulted from such deviations and such actions," FRS claimed.

"Similarly, they failed to advise FRS of the additional risks posed by the fund's increasing reliance on risky, illiquid CDOs, CMOs and other untested investments many of which were themselves invested in dubious subprime loans," it added.

All told, the fund's \$1.1 billion net asset value in January 2007 had tumbled to roughly \$130 million by the end of 2008, according to the complaint.

The lawsuit brings counts of violating Louisiana securities laws, breach of fiduciary duties and of contract and negligent misrepresentation. It seeks real and exemplary damages, with interest, and attorneys' fees.

The defendants argued Thursday that the suit merits removal to federal court even though all of its asserted claims are made under state or common law because it seeks a remedy – specifically, damages stemming from "lost investment profits and opportunities" – that is available exclusively under federal law.

The plaintiff is represented by Reasonover & Olinde LLC; **Levin, Papantonio**, Thomas, Mitchell, Eschsner & Proctor PA; **Haskell, Slaughter**, Young & Rediker LLC; and Smiley Bishop & Porter LLP.

The defendants are represented by **Barrasso Usdin** Kupperman Freeman & Sarver LLC; **Jones, Walker**, Waechter, Poitevent, Carrere & Denegre LLP; and **Maynard, Cooper & Gale** PC.

The case is Firefighters' Retirement System v. Regions Bank et al., case number 3:08-cv-00429, in the U.S. District Court for the Middle District of Louisiana.

All Content Copyright 2007, Portfolio Media, Inc.