



Class Action Costs Insurance Company \$72.5M

Plaintiffs say The Hartford short-changed them on structured settlements

By CHRISTIAN NOLAN

S*pencer, et al. v. The Hartford Financial Services Group, Inc., et al.*: A five-year court battle has ended with The Hartford Financial Services Group agreeing to pay \$72.5 million to 21,000 people.

The plaintiffs in the nationwide class action were people who had been injured and were owed insurance payments as compensation. They claimed that instead of paying the full settlement, The Hartford deducted 15 percent, after claiming that money was needed, in part, to cover the costs of purchasing an annuity.

"It's a great settlement because people who have been victimized by corporate fraud are getting reimbursed," said **David Golub**, of Stamford's **Silver, Golub & Teitell**, who, along with four out-of-state firms, served as plaintiff's counsel in the class action filed in U.S. District Court in Bridgeport.

The Hartford was represented by William Jeffress, a partner at Baker Botts in Washington D.C. and James Bicks, of Stamford's Wiggin and Dana. The lawyers could not be reached for comment last week. But a spokesman for The Hartford issued a statement after the settlement was announced: "We are confident that every claimant received the amount specified in the structured settlement agreements and are settling to avoid the uncertainties and costs of continued litigation."

The complaint stemmed from how The Hartford, headquartered in Connecticut, handled personal injury and workers' compensation claims. For example, if a plaintiff had settled a personal injury claim from an accident for \$100,000, the Hartford might pay \$50,000 in a lump sum and then set up a structured settlement to pay the



Attorney David Golub said The Hartford argues its practices are standard in the industry. He says plaintiffs' attorneys are looking for potential clients to bring claims against other insurers.

rest of the money in a series of payments over time. But in the end, those payments would allegedly total only \$42,500.

Golub said the structured settlement payments came from annuities. The alleged scheme involved The Hartford, through its property and casualty companies, purchasing annuities from its life insurance subsidiary. The Hartford would then deduct the cost of purchasing the annuity from the money paid out in settlements.

But allegedly, The Hartford was not actually incurring all those costs, as its life insurance subsidiary would kick back a

portion of those costs to the property and casualty division.

The plaintiffs alleged federal racketeering violations and common law fraud in their claim, which was initially brought about five years ago. At the beginning, all the plaintiff's attorneys knew was that they had clients who had not received 100 percent of their settlement money from The Hartford.

But as time went on, the plaintiff's attorneys said they uncovered these details:

In 1992, The Hartford began a program called Secured Benefit Services, or the SBS Program. Its purpose, the complaint al-

leged, was to settle claims using structured settlements funded by annuities from the Hartford Life Companies.

The annuities were provided by insurance brokers. In 1997, The Hartford began a Broker Assistance Program, or BAP. Under the program, the company selected certain outside brokerage firms to assist with the structured settlements. Selected brokers that sold a Hartford annuity, according to the complaint, were paid a 3 percent commission instead of the indus-

try standard 4 percent. But The Hartford would deduct 4 percent from the payments to the person receiving the settlement.

much for profit, so much for taxes; it all came out to 15 percent," Golub said. "It was a 72-and-a-half million dollar pie chart. It gave us a case that we didn't have before."

U.S. District Court Judge Janet Hall certified the class action status of the claim in March 2009. The Hartford challenged that decision in the 2nd Circuit Court of Appeals, which ruled against the financial services giant last October.

The two sides went to acclaimed mediator David Geronemus, of the JAMS com-

pany in New York, earlier this year. Instead of going to trial this September, the parties agreed to a \$72.5 million settlement in which each individual plaintiff would be paid about \$3,300. Judge Hall has given preliminary approval to the settlement.

"This settlement shows the benefit of class action," said Golub. "While it would not have been practical for individual class members to pursue separate actions, we are pleased that each class member will receive real money through this settlement."

Richard H. Agins, a business law expert with Sigman & Rochlin LLC in Hartford, said the case may cause insurers to reevaluate practices that enable them to cut costs by shifting money between two divisions of the company.

"It sends the message to insurers that they have to be careful about the appearance of self-dealing," said Agins. "Certainly, when you take money out of your right pocket and put it in your left pocket, whether it's wrong or not, it raises questions in people's minds."

Golub, meanwhile, said he's already looking into similar schemes on the part of other large financial services companies.

"It's not just The Hartford that does or did this," said Golub. "One of The Hartford's defenses in this case was everybody does this... Many of the insurance companies that have both [property and casualty] and life insurance divisions or subsidiaries do this same thing. So we're hoping this may change the practice of other companies as well."

Assisting Golub in the case were **Jonathan Levine**, also from **Silver, Golub & Teitell**; Peter R. Kahana and Steven Bloch, of Philadelphia's Berger & Montague P.C., Carl S. Kravitz and Caroline E. Reynolds of Washington D.C.'s Zuckerman Spaeder LLP, and Richard B. Risk Jr., from the Risk Law Firm in Tulsa, Okla. ■

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