

Ameriprise workers sue over company's own 401(k) funds

Claim employer put retirement assets in proprietary funds that incurred \$20M in excess costs

By **Darla Mercado**

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A group of workers at Ameriprise Financial Inc. have filed suit in federal court against their employer, alleging the company placed their 401(k) contributions in proprietary funds, ringing up \$20 million in excessive costs.

The suit, which is seeking class action certification, was filed yesterday in the U.S. District Court in Minnesota and is led by employee Roger Krueger, and five other current and former Ameriprise plan participants.

Named defendants include Ameriprise, and the firm's employee benefits administration and 401(k) investment committees.


"This is a copycat lawsuit by a law firm that has brought similar cases against companies across the country, and we plan to defend it vigorously," wrote Ameriprise spokesman Ben Pratt in an e-mail.

The workers allege that Ameriprise and its committees, as the plan's overseers, violated their fiduciary duty to the retirement plan. Investments in the 401(k) plan included mutual funds and target date funds from Ameriprise subsidiary RiverSource Investments LLC, which is now known as Columbia Management Investment Advisers LLC. Between 2005 and March 2007, an average of \$500 million in plan assets went annually into RiverSource and Ameriprise Trust Co., the trustee and record keeper of the plan, according to the complaint.

Ultimately, the investment generated fee revenue for RiverSource and its affiliates, as well as for Ameriprise Trust Co., the plaintiffs claim. Further, the funds themselves were costly when compared to offerings from The Vanguard Group Inc., the workers say.

For example, Ameriprise's diversified bond fund cost 78 basis points in 2010 — some 71 basis points more than a comparable offering from Vanguard, according to the complaint.

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Target date funds from RiverSource ranged from 84 to 92 basis points, costing 74 basis points more than a Vanguard alternative, the suit claims. Plaintiffs say that Ameriprise selected the R4 share class of RiverSource mutual funds, when it could have saved the workers 17 to 34 basis points by choosing the R5 share class.

The employees assert that the plan lost more than \$20 million related to excessive fees and expenses.


Workers also claim that the RiverSource funds lagged their benchmarks, received poor ratings from Morningstar Inc. and experienced outflows of \$9.3 billion in 2005 and \$6.9 billion in 2006.

"Defendants chose more expensive funds with inferior performance histories in order to generate revenue for RiverSource and ATC, and ultimately to benefit Ameriprise," the plaintiffs claim. "[An] investigation would have revealed to a reasonably prudent fiduciary that the RiverSource and ATC-managed investment options investing in RiverSource mutual funds were imprudent."

By placing the workers' funds in costly proprietary funds, Ameriprise violated its fiduciary duty to the retirement plan under the Employee Retirement Income Security Act of 1974, according to the complaint.


The plaintiffs did not disclose the amount for which they are suing, as they are seeking restitution, disgorgement of all revenues and the award of actual money losses. They called on the court to restore the plan's losses and put the participants in the position they would have been in "if the plan had been properly administered."

News of the suit was first reported by Law360.



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