

The ADVOCATE

Wachovia ordered to pay \$1M for demoting Stamford reservist

By Monica Potts, Staff Writer

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STAMFORD -- An Air Force reservist deployed after Sept. 11, 2001, is entitled to more than \$1 million after Wachovia Securities violated federal law when it belatedly offered him a reduced version of his former job, a federal judge ruled late Thursday.

City native Michael Serricchio, 35, was a financial adviser for Prudential Securities in Stamford when he became one of the first National Guard members and reservists activated after the terrorist attacks. Wachovia acquired Prudential's brokerage division before Serricchio returned in 2003.

"I know other returning servicemen have faced similar problems," Serricchio said in a statement. "And I hope that the decision in my case will encourage them in their fight to vindicate their rights."

Wachovia offered him a reduced position four months after he returned and told him he would have to rebuild his client base, which a jury determined in June violated a rule requiring employers to maintain positions for serviceman called away on active duty.

Judge Janet Bond Arterton of U.S. District Court in New Haven ruled Serricchio should receive about \$800,000 in back pay, interest and damages. Wachovia also must pay Serricchio's court costs and fees, which his attorneys estimated to be more than \$500,000.

"Even after the jury ruled in our favor, Wachovia took the position that they didn't do anything wrong, that they didn't owe him a penny in back pay," said Serricchio's attorney, David Golub. "Her decision is a direct rejection of everything they argued."

Tony Mattera, a spokesman for Wachovia Securities, echoed Wachovia's sentiment after the jury's verdict.

"We are considering our options, including a possible appeal," Mattera said.

Capt. Sam Wright, who retired from the Navy Reserves and works as an attorney in Washington, D.C., said he believes the Serricchio ruling is one of the largest individual

awards received under the 1994 federal law, known as the Uniformed Services Employment and Reemployment Rights Act.

"I think it's a very important case," he said. "It shows that USERRA applies to people that work just on commission."

The case also shows that Wachovia Securities assumed Prudential's obligations to Serricchio, Wright said. Wachovia was taken over by Wells Fargo last year.

In addition to the award, Wachovia Securities must rehire Serricchio at a \$12,300 monthly salary beginning April 1, Arterton ruled.

Serricchio was awarded damages in addition to back pay because Arterton found that Wachovia knew about its obligations under the law and ignored them, Golub said.

Wright said Golub hired him to write briefs and do some work on the case before he joined the firm he works for now.

The 1994 law was a rewrite of a nearly 70-year-old law dictating the reemployment of someone who volunteers or is recruited for service. Still, many employers are unaware of its requirements, Wright said.

"It's not just a nice thing to do," he said. "It's the law."

It applies to every employer in the country, no matter how small, Wright said.

"We're depending on a fraction of one percent of the population to defend the country," he said. "And those people, we owe a lot to them. What (employers) are being asked to do is pretty small compared to what the people asked to serve are doing."

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