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FINRA Rules On Deutsche Bank Employment Practices

By **Kat Greene**

Law360, Los Angeles (September 15, 2014, 7:02 PM ET) -- The Financial Industry Regulatory Authority on Friday agreed to let former Deutsche Bank AG employees solicit bank clients after a shortened period after the employees alleged they left the bank's financial advisory unit because it was using "shady" practices.

Deutsche Bank was seeking to hold the employees to their 90-day contractual notice period, and prevent them from offering services to Deutsche Bank clients for another 120 days after that. FINRA held that for some of the junior employees in the suit, the time lapsed during the arbitration itself was long enough , according to a decision entered on Friday. The notice periods for senior employees were held the same, but the nonsolicitation periods were shortened, according to the decision.

"This was a complete vindication of my clients' rights," attorney Howard Elman of Matalon Shweky Elman PLLC told Law360 on Monday. Elman represents the junior employees in the dispute. Those employees were free of the bank's nonsolicitation agreement keeping them from working as soon as FINRA's interim decision in the dispute was handed down on July 23, according to the decision.

The independent regulator determined that some of the employees in the dispute would be subject to a 60-day notice period and a 60-day nonsolicitation period, and others would face a 90-day notice period and a 60-day nonsolicitation period, according to the decision.

The decision split the fees among the parties, according to FINRA records.

Deutsche Bank sued rival HPM Partners LLC and its own former employees in May, alleging the asset manager and its new hires colluded in an attempt to unlawfully lure a number of other talented employees away from Deutsche Bank — and the clients who worked with those employees — according to court records. HPM would be able to build a solid client book without spending the marketing dollars and years Deutsche Bank put into building its business, according to that suit.

HPM was dropped from the FINRA dispute in June, according to the regulator's records. It is still a defendant in Deutsche Bank's suit.

Benjamin Pace and Lawrence Weissman **hit back at Deutsche Bank** in May in New York state court, alleging it was the bank's own "shady" practices that forced them to leave the company, according to court records.

The pair, who supervised a group of Deutsche Bank employees who invested the assets of high net worth customers — the domestic discretionary portfolio management group, or DDPM — asked for a preliminary injunction allowing them to leave the bank and continue working while they pursued arbitration before FINRA, according to court records.

Weissman and Pace claimed the bank, after a recent merger of several of its units, tried to make them misuse the trust they and their team had built up with their clients, pressuring them to inappropriately sell the bank's proprietary investment products at the expense of other investments that better fit with those clients' needs and goals.

This escalated to the team's being set a specific target of putting $80 million of its clients' money into a speculative investment fund, and this continued pressure to violate the fiduciary obligation to clients left Weissman and Pace no choice but to resign, the pair said.

Deutsche Bank lied to customers, saying the investment team was fired as part of a larger restructuring, both to prevent the two from working for another employer and from offering services to their existing customers, according to the employees' complaint.

A New York state judge in August agreed to a stipulation by the parties to deny Pace and Weissman's motion for an injunction to aid the arbitration, according to an order disposing that case.

Deutsche Bank's suit targeted Weissman and Pace, as well as Steven A. Kurosko, Lindsey J. Nadel, Quinn Jo-Rose Portfolio and Neza Bevc, according to court records.

The FINRA award addressed both cases, the filing shows.

Portfolio, Bevc, Jessica Ann Farrell and Patrick Murray were all off the hook on July 23, according to the decision. Kurosko and Nadel were given a 60-day notice and 60-day nonsolicitation period, and Weissman, Pace and David D. Jumper were given a 90-day notice period and 60-day nonsolicitation period, according to the decision. The notice periods for the employees were held steady, but the nonsolicitation periods were cut in half by the FINRA panel.

Attorneys for the senior employees and Deutsche Bank units did not immediately respond to requests for comment on Monday.

Pace, Kurosko, Nadel and Jumper are represented by Kevin Reed, David Mader and Haley Plourde-Cole of Quinn Emanuel Urquhart & Sullivan LLP.

Bevc, Farrell, Murray and Portfolio are represented by Howard Elman and Jeremy Bates of Matalon Shweky Elman PLLC.

The Deutsche Bank units are represented by John Siegal, Sammi Malek, Anat Maytal and Nexus Sea of BakerHostetler.

The FINRA arbitration cases are Benjamin A. Pace III et al. v. Deutsche Bank Securities Inc. et al., case number 14-01727, and Deutsche Bank Securities Inc. et al. v. Neza Bevc et al., case number 14-01699, both before FINRA.

The bank's suit is Deutsche Bank Trust Co. Americas v. HPM Partners LLC et al., case number 651622/2014; and the employees' suit is Pace et al. v. Deutsche Bank Securities Inc. et al., case number 651623/2014, both in the Supreme Court of the State of New York, County of New York.

--Additional reporting by Daniel Wilson. Editing by Stephen Berg.