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Some Wachovia shareholders balk at settlement

Julie Rose

Thursday August 13, 2009

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A number of former Wachovia shareholders say they're about to get the shaft in a settlement of the class action lawsuit filed against the bank over its acquisition by Wells Fargo. WFAE's Julie Rose reports:

A New Yorker named Irving Ehrenhaus first filed the lawsuit back in December claiming the Wachovia sale to Wells Fargo was unfair to shareholders like him. The lawsuit didn't manage to stop the \$15 billion acquisition, but next week a judge will consider a settlement in the case that leaves some shareholders feeling cold.

Attorney Joe Millsaps represents three of them in Charlotte.

"They're complaining because of the fact that the lawyers have come in and been paid a big fee to protect the shareholders," says Millsaps. "The shareholders receive nothing from the case."

The settlement offers no money to shareholders included in the class action suit, but pays \$2 million to the New York law firm representing them. Charlotte School of Law Professor Carlos Pauling says it's pretty common for the financial payoff to be small, or nonexistent, in big class action suits like this one where there are more than a million shareholders who qualify as members of the class.

But Pauling says "no money" doesn't necessarily mean the effort failed.

"Even though the participants of the class may not have gotten something large, you don't always bring suit to get money," he says. "You may bring suit to change behavior."

In this case, the settlement did force Wachovia and Wells Fargo to divulge additional information to shareholders before they voted on the merger. The shareholder who first brought the suit, Irving Ehrenhaus, declined to comment on the settlement, and his attorneys did not return phone calls. However, court filings suggest they are satisfied with the deal.

Irritating as the money part may be, Charlotte Attorney Joe Millsaps' clients are even more concerned that the settlement includes wording that could prevent them from filing other lawsuits related to Wachovia.

"They will have no right to opt out of this case and they have no right to appeal this case," says Millsaps. "And the decision will keep them from ever pursuing a case."

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Millsaps and attorneys for at least half a dozen other former Wachovia shareholders will plead their case at a settlement hearing next Thursday in Charlotte. Hundreds of thousands of other shareholders already forfeited that right by ignoring the mailed notice they recently received from Wachovia.

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