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VERDICTS & SETTLEMENTS

# Miami, Coral Springs team helped class recover $150M

**Case:** Billitteri v. Securities America et al
**Case no:** 3:09-cv-01568 and related cases
**Description:** Securities fraud, negligence and breach of fiduciary duty
**Filing date:** Sept. 18, 2009
**Settlement date:** Aug. 4, 2011
**Settlement:** $150 million
**Judge:** Senior U.S. District Judge W. Royal Furgeson Jr.
**Plantiff attorneys:** Jeffrey Kaplan, David Rothstein, Rob Linkin and Brian Levin, Dimond Kaplan & Rothstein, Miami; Scott Silver and Adolfo Anzola, Blum & Silver, Coral Springs
**Defense attorneys:** Nicholas Cristakos and Bruce Bettigole, Sutherland Asbill & Brennan, Washington
**Details:** Nebraska-based broker-dealer Securities America sold thousands of investments from two companies that turned out to be Ponzi schemes. Medical Capital purported to buy accounts receivable medical bills and make loans to health care providers. Provident Royalties claimed to develop oil and gas properties and sold stock.

Securities America, a subsidiary of Ameriprise, sold $697 million worth of Medical Capital notes and $47 million of Provident securities. In 2009, the Securities and Exchange Commission charged both companies were frauds.

**Plaintiff case:** Investors sued Securities America and Ameriprise in an attempt to recover their money. The Billitteri case dealt with the sale of Provident securities and was filed in Dallas in August 2009. Another case, which addressed the sale of Medical Capital Securities, was filed in September 2009 in Los Angeles and consolidated with the Texas case in January for settlement negotiations. The combined Provident-Medical class represented 2,158 people.

About 650 victims opted out of the class action and pursued individual arbitration with the Financial Industry Regulatory Authority, seeking a combined $150 million. The class action and arbitration cases moved forward on parallel tracks.

The court denied the first proposed settlement valued at $21 million for both companies, which would have involuntarily included those in arbitration, despite pleas from some lawyers that Securities America would go bankrupt if the deal were rejected. Additionally, Montana securities and insurance regulators objected to the settlement, wanting to preserve a right to recover funds.


J. ALBERT DIAZ

**The combined Provident-Medical class, which included 2,158 people, was represented in part by Jeffrey Kaplan, David Rothstein and Scott Silver.**

**Defense case:** Defense attorneys did not respond to calls for comment by deadline. In a statement, Securities America spokeswoman Janine Werthem said: "Thousands of people were harmed by the alleged fraud committed by the principals of Medical Capital including investors, advisers and broker dealers like Securities America. Investors who purchased these investments through us will receive a meaningful return of their investment through the class settlement. We are pleased we can all put this matter behind us."
**Outcome:** On Aug. 4, the court approved an $80 million class settlement, representing a return to investors of 40 cents on the dollar, minus administrative and attorney fees. The arbitration cases settled for $70 million in March, according to a court filing. The combined settlement for the class and arbitration cases was the largest approved in the history of the Northern District of Texas. Attorney fees of $18 million were approved in the class action. Arbitration attorney fees are individual and confidential.
**Quote:** "We were extremely pleased with the class action settlement which represented a significantly greater recovery than victims usually get in securities class actions," said Kaplan, lead counsel. "Typically investors only get 5 percent of their losses back. This class action resulted in 40 percent of losses returned to investors."
**Post-settlement:** Securities America has paid the class action settlement and is expected to pay the arbitration this week. Miami-based Ladenburg Thalmann Financial Services agreed Aug. 17 to buy Securities America from Ameriprise for $150 million cash plus future considerations based on 2012 and 2013 performance.

**— Julie Kay**