

Met investors' hopes fade

John Stucke

Staff writer

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Some legal efforts to win money from deep-pocketed companies that audited Metropolitan Mortgage & Securities Co. are failing, potentially dashing the hopes of thousands of investors who looked to those sources to recover some of their money.

Recent rulings have cleared Ernst & Young in one major arbitration case.

And in a lawsuit in U.S. District Court in Spokane, a judge has issued tentative rulings that signal he is prepared to dismiss most accusations of professional negligence against PriceWaterhouseCoopers.

The claims against the accounting firms are the best chance for more than 10,000 investors to recoup about \$470 million lost when Metropolitan Mortgage collapsed in 2003-2004.

Lawyers and officials involved in the cases declined to speak on the record. But recent developments and court rulings show resounding victories for the auditors and setbacks for investors. Here's what has happened: A three-member arbitration panel on Jan. 10 rejected a claim brought against Ernst & Young LLP by Washington State Insurance Commissioner Mike Kreidler. The commissioner put key Metropolitan insurance affiliate Western United Life Assurance Co. into receivership four years ago because of accounting irregularities and bankruptcy.

Under Kreidler's receivership, Western pressed an arbitration case against Ernst & Young accusing the auditors of professional negligence. Had Ernst & Young uncovered Western's business shortcomings and accounting problems during its audits, Kreidler argued, regulators could have stepped in and prevented huge losses.

Kreidler argued that Ernst & Young failed to uncover problems stemming from questionable loans and overstated cash flow, along with widespread deficiencies in Western's internal operations that included poor management and underwriting activities.

The arbitration panel ruled that Ernst & Young was not negligent and did not cause Western's problems in court filings that were made public Monday.

A federal jury earlier this year convicted former Metropolitan executive Thomas Turner on felony charges of lying and misleading Ernst & Young's auditing team. The two-week trial turned on whom the jury believed was at fault for the Metropolitan mess: auditors or former executives.

It took the jury less than a day to return its guilty verdicts.

While Ernst & Young has successfully defended itself thus far, it still faces an arbitration case brought by the Metropolitan Creditors' Trust.

The trust also must persuade U.S. District Court Judge Fred Van Sickle during a hearing next week to allow malpractice charges against PriceWaterhouseCoopers to go to trial. Van Sickle is prepared to dismiss three of the four charges; the hearing puts the onus squarely on the trust to change his mind.

The trust has the upper hand in advancing at least one count to trial, which centers on a tax shelter scheme that PriceWaterhouse sold to Metropolitan 10 years ago. The accounting giant has since disavowed its past tax shelter practice in the wake of crackdowns by the Internal Revenue Service and congressional hearings.