

## The Columbus Dispatch

ADVICE FOR ELDERLY

# Beware annuity sharks

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*THE COLUMBUS DISPATCH*

Mildred McCreanor suffered from dementia, was partially blind from diabetes and had recently moved into a nursing home near her Miami County home.

The last thing the 83-year-old woman should have done with her life's savings was cash in her annuities to buy a new one, said the lawyer representing her estate.

"This is a perfect example of why these products are horrible and inappropriate for someone elderly and in bad health," said Columbus lawyer David Meyer.

An arbitration panel of the Financial Industry Regulatory Authority sided with McCreanor's estate by a 2-1 vote on March 13 and ordered Huntington Investment Co. to pay \$110,000 in compensatory damages.

The investment company is a subsidiary of Columbus-based Huntington Bancshares.

"I was excited and relieved" by the panel's decision, said Jack Hershey, 71 and the oldest of McCreanor's five children.

He had power of attorney for his mother and had signed off on the annuity in early 2006, believing it was a sound investment.

McCreanor died two weeks later, and Hershey said that he and his siblings received half of what they thought they should have from the new Huntington annuity.

"While Huntington Investment Company contested the claim and is disappointed in the ruling, we will fully abide by the FINRA arbitration panel's 2-to-1 split decision in this matter," Huntington spokeswoman Jeri Grier said in a statement. She declined to comment on specifics of the case.

The Ohio Department of Insurance will investigate the matter, including Nicholas Bobb, the broker who sold the annuity to McCreanor. "We will contact Huntington for more information and will be opening a file on the situation," department spokeswoman Carly Glick said.

Bobb, who now works for NatCity Investments in Columbus, declined to comment.

The Huntington case is hardly the first to involve a familiar name in Ohio financial circles. In January 2008, the Financial Industry Regulatory Authority fined Banc One Securities Corp. of Chicago \$225,000 for "making unsuitable sales of deferred variable annuities to 23 customers" and for issues related to that. The authority said 21 of the 23 customers were older than 70.

That case involved transactions between Jan. 1, 2004, and June 30, 2005. Banc One Securities didn't admit or deny the charges, the authority said in a statement last year. Banc One Securities merged with JPMorgan Securities Inc. in 2006.

Seniors are often viewed as marks for identity theft, outright financial fraud and financial products that are legal but not in their best interests.

"Unfortunately, seniors are attractive targets for scams," said Karla Warren, spokeswoman for the Ohio Department of Aging.

The Ohio Department of Insurance's Consumer Services Division received 414 consumer complaints about annuities between Jan. 1, 2007, and March 17 of this year. The calls addressed suitability, misrepresentation and agent issues, and also included requests for general information.

Annuities are legitimate and legal investments that provide retirement income and often a death benefit for beneficiaries.

Fixed-rate annuities offer guaranteed payments, often on a monthly basis, while the payments of variable-rate annuities are based on the performance of a securities portfolio.

Equity-index annuities are a combination of a fixed and a variable annuity and "are very complex and very hard to compare," said John Gannon, senior vice president for investor relations at the Financial Industry Regulatory Authority.

Many experts warn seniors to think carefully before investing in an annuity, and the Ohio Department of Insurance warns seniors to avoid "predatory sales practices."

"The problem with annuities is it is quite possible the senior will not live long enough to see a personal gain," Glick said. "And we hear reports of churning, which is when agents encourage seniors to replace an old annuity with a new annuity."

Churning, she said, generates surrender fees and lucrative commissions for brokers.

In McCreanor's case, Meyer said, her son was advised to cash in his mother's annuities, which resulted in a \$6,000 surrender fee.

Hershey was sold a \$212,000 immediate fixed-rate annuity that paid out \$1,500 a month; that income was to be used for his mother's nursing home and medical expenses, said Marnie Lambert, another of the estate's attorneys.

In an immediate annuity, the purchaser pays a lump sum for the annuity and receives regular payments right away.

"She would have had to have lived a long time for this (type of annuity) to make sense," Lambert said.

Hershey said that Bobb told him this "was the best way to go, and I thought he knew a lot more than I did about it, and I let him carry the ball."

McCreanor received one monthly payment of \$1,500 before she died.

Hershey said he was led to believe the annuity paid a death benefit to his mother's estate in the full amount: \$212,000. But it paid out only \$106,000.

"I was shocked and really upset," he said. "I felt like I had let down my brothers and sisters."

The arbitration panel, in its award resolution, did not say why it found in favor of McCreanor's estate. The lack of explanation is standard procedure.

In summing up the argument presented by Huntington's attorney, the panel wrote that the defense stated the bank "reasonably relied on claimant's assertions that she understood the investments she was making," and McCreanor and Hershey "ratified any investment recommendations."

That's not enough, Meyer said. "The law states they have a fiduciary obligation to represent what's in the best interest of the client," he said.

Seniors should be wary of several things when contemplating exchanging one annuity for another, Gannon said. The list includes sales and surrender charges and increased fees and expenses.

"And the person exchanging the products is paid a commission, and people should be aware of this conflict of interest," Gannon said.

Commissions are higher on variable-rate annuities, he added. "So guess which ones a broker might push?" he said.

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