

Stick a Fork in Mellon Bank on Multi-Pronged Pension-Fund Ripoff

By MARK TOOR | Posted: Friday, October 7, 2011 5:00 pm

It was a simple scheme: Exchange rates for foreign currency fluctuate during the day. The bank promised to give customers the day's best rate. Instead, it gave them the worst rate, and pocketed the difference between that rate and the one at which it actually made the exchange. The bank's profit from the fraud: \$2 billion over a 10-year period.

That's what State Attorney General Eric T. Schneiderman and the Bloomberg administration allege in a suit filed Oct. 4 in Manhattan Supreme Court against the Bank of New York Mellon. They say the victims of this scam include the New York City and the State University pension funds as well as dozens of private pension and investment funds.

U.S. Attorney Makes Same Case

U.S. Attorney Preet Bharara filed a suit the same day with similar allegations in Manhattan Federal Court. During the financial crisis of 2008, "when currency prices fluctuated dramatically, the profits [the bank] generated at the expense of its custodial clients were enormous," according to the Federal complaint.

The suits charge that BNY Mellon made up to 75 percent of its foreign-exchange profits from the scheme. Mr. Schneiderman's office said the deceptive foreign-exchange transactions made under the scheme were seven times as profitable as those conducted honestly.

"As we've demonstrated many times, we will use litigation to ensure that our pension funds are not shortchanged, now or in the future," Assistant City Corporation Counsel John Low-Beer said in a statement. The city funds involved are the New York City Employees' Retirement System and other pension funds that cover Teachers, other Department of Education staff, police, and firefighters.

Bank Calls It an 'Overreach'

"This landmark case uncovered a fraud committed against both government and private pension funds," said Karla G. Sanchez, an aide to Mr. Schneiderman. The state suit said BNY "engaged in a multi-pronged campaign of deception" in trying to entice clients by promising the best rates.

Bank spokesman Kevin Heine told Bloomberg News in an e-mail that the both the state and Federal suits are based on "flawed analysis" and a misunderstanding of the foreign-exchange market.

"Simply put, this is the kind of prosecutorial overreach that ill serves New York, New Yorkers, and the pension funds that the Office of the New York Attorney General purports to represent," he wrote.

The case began when a whistleblower filed a complaint with the State Attorney General's office.

The suit filed in state court seeks to force BNY Mellon to make restitution, pay triple damages and be fined \$12,000 per violation.