Bank says it will pay $6 million after allegedly dipping into workers' pension fund

Publication Date **01/10/2024**
Source: **Free Lance-Star (Fredericksburg, VA)**

A Virginia bank has offered $6 million to settle claims that executives dipped into a pension fund for its employees, breaching fiduciary obligations, according to court papers.

In 2019, Virginia Community Bank, now known as Blue Ridge Bank after a merger, was hit with a class action lawsuit representing around 78 employees. The suit alleges that company executives used the pension fund to buy company stock at an inflated value, despite having “inside information” of the stock price’s imminent decline.

Under a federal law enacted in 1974, employers who manage retirement plans are barred from self-dealing. The law, the Employee Retirement Income Security Act, requires employers to act “solely in the interest of participants and beneficiaries.”

The suit was brought by Janice Moore, a Louisa County resident. Moore, who worked for the bank for 33 years, opted into the pension plan, an arrangement in which Virginia Community Bank paid 10% of Moore’s salary toward her retirement at the end of each calendar year, court records state.

In 2017, as Moore prepared to retire, she wrote to the bank’s president expressing concern about why her retirement benefits had shrunk. Further investigation found that in 2007, around $8,000 from her retirement plan was used to buy the company stock at a value of as much as $80 per share. At the time, the stock was trading at around $45.

Moore alleged that two bank directors, Pierce Stone and Ronald Spicer, sold their own stocks at the inflated price, allowing them to pocket the difference.

“The illegal windfall profits of defendants ... were fully paid for by [pension plan] participants like plaintiff Moore,” stated the complaint, describing her retirement funds as being “eviscerated as a result” of the buyback scheme.

The suit, filed in the Western District of Virginia, also alleges that the executives funded the buybacks by using the pension plan to take out loans. The loan “saddled the pension plan with debt” and “substantially reduced the amount of retirement benefit distributions” to the company’s employees during the period of 2007 to 2018.

Blue Ridge Bankshares did not return calls placed for comment on Monday. Stone retired in 2020, according to a LinkedIn profile. Spicer, who died in 2022, retired from the company in September 2006, but remained with the company as a member of the board.

The settlement terms do not include an admission that Virginia Community Bank's transactions violated federal law.

The alleged buybacks occurred between 2006 and 2008 on the cusp of the Great Recession, which sent stock prices tumbling and strained some banks that had issued risky mortgages.

In 2006, the plan had $7.6 million, according to forms from the Department of Labor. In 2018, after receiving $4 million in contributions, the plan had shrunk to $5.2 million.

Moore's complaint alleged the dealings amounted to around $12 million in losses from the plan, which is what the plaintiffs sought when the suit was first announced.

But a preliminary settlement indicates the case will conclude with a $6 million settlement, pending approval from a federal judge. Affected employees will receive an estimated $30,000 each. A maximum of $2 million will go to the plaintiffs' legal fees.

Moore and the class of defendants are being represented by two Richmond law firms, the Krudys Law Firm and Butler Curwood.

Both firms declined to comment, citing terms of the settlement, which is not yet finalized.