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The
Screwed
Investors'
Lawyer

David Meyer makes
Big Bucks suing Bad Brokers





When your broker lies, cheats or steals, who you gonna call? In Central Ohio, **David Meyer's** the go-to guy.

By Tami Kamin-Meyer

The *Screwed* Investors' Lawyer

“Catherine Long” (not her real name) is a 90-year-old widow and a retired school-teacher. She used to worry about her financial future, since she didn't have much savings. Then, several years ago, her brother died and left her several hundred thousand dollars. Knowing she needed professional investment advice, Long turned to Bank One, cautioning her investment advisor there that whatever he did “must be safe.” The money was placed in mutual funds; had it stayed there, that would be the end of the story.

But it's not.

Long's advisor moved on to a brokerage firm, taking Long's account with him. Soon after, the broker liquidated her mutual funds and began buying risky, aggressive investments, including some of the dot-com stocks that then were so hot. When the stock market began a three-year dive in 2000, so did Long's portfolio.

“She didn't understand how much she was losing,” says Long's son “Michael” (also not his real name). The broker, Michael Long contends, “was moving the money around to make commissions.” Eventually, the broker was fired, but he moved on to yet another firm, again taking Long's account with him and continuing to rack up commissions by churning the account. By the time he was fired again, Long had lost most of her inheritance.

Desperate to recoup his mother's losses, Michael Long turned in March 2003 to Columbus attorney David P. Meyer, a young, fresh-faced attorney whose two-lawyer Columbus firm exclusively represents individual investors. “Dave knew what he was doing,” says Long. “He told us stockbrokers have fiduciary duties to their clients.”

Whether out of ignorance, laziness or outright greed, some brokers, investment advisors and financial services executives seem to have forgotten that “serve” and “screw” are not synonyms when it comes to how they treat their clients. Upon that forgetfulness, David Meyer is building his entire law practice.

Sometimes the work of representing wronged investors is relatively simple. In Catherine Long's case, for example, the investment firms had no defense. Meyer was able to settle the case prior to arbitration, which is the usual arena for dispute resolution in stockbroker malpractice cases. Michael Long says his mother recovered about 85 percent of her money, and the settlement “had a positive influence on her health, which had suffered greatly after we discovered she had lost so much.”

It's not always that easy, of course. Sometimes the brokerage puts up a fight. Sometimes an arbitrator doesn't see things the client's way. And sometimes, even when Meyer wins, he and his claimants must wade through years of legal maneuvering before they see any money.

Not that Meyer's complaining. He believes he's pioneering a legal specialty that will let him do well financially while doing good for his clients. “Finally, brokerage firms are being held accountable for victimizing individual investors all across the country,” Meyer says. It's a legal wave that's breaking everywhere, a wave Meyer figures he'll be surfing for lots of years—perhaps for an entire legal career.

GREG BARTRAM

THE SPRINGBOARD

Just eight years out of Capital University Law School, Meyer's a relative newbie on the Columbus legal scene. The West Virginia native, whose father is a prominent lawyer back home in Charleston, says he's known he wanted to be an attorney ever since he began accompanying his dad to the office on weekends when he was barely out of diapers.

Meyer's father represents plaintiffs in personal injury (PI) cases—auto accidents and the like. During law school, Meyer clerked at the Columbus firm of Clark, Perdue, Roberts & Scott, which represents big-ticket PI plaintiffs. Meyer wasn't drawn to that field, though. "I thought, 'There are plenty of PI lawyers out there, and I want to help plaintiffs but in the business arena,'" he says.

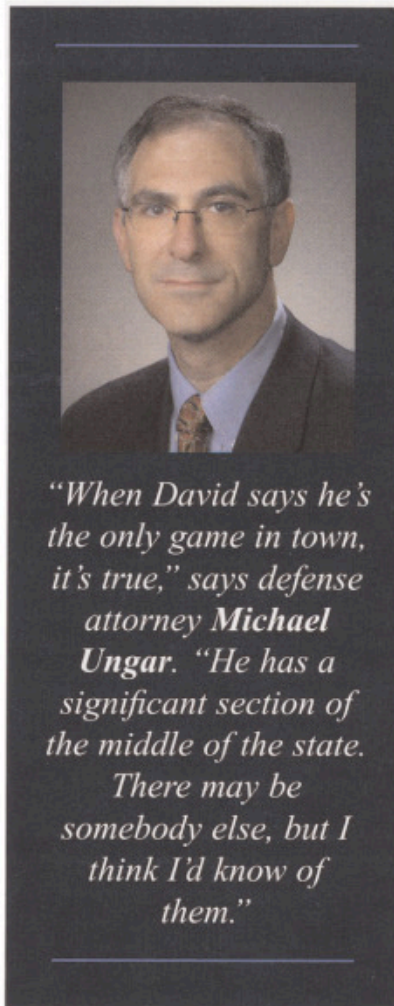
Ricketts & Onda, a small business litigation law firm in German Village, hired Meyer as an associate as soon as he passed the Ohio bar exam in 1995. Meyer "handled a significant part of our firm's litigation," says Rick Ricketts. "He is creative, diligent, intelligent and industrious."

Meyer says he enjoyed business law, but "I wanted to build something for myself." His chance came in 1999, when some 300 Marion area residents asked for legal help. All were retirees whose lump-sum benefits had been invested with a stockbroker at Prudential Securities. "Had been" was the operative phrase. Without the retirees' knowledge, broker Jeffrey Pickett had sold all of their investments, liquidating some \$40 million and executing more than 2,500 unauthorized trades over several days in October 1998.

Why would a broker take it upon himself to sell out his clients? Pickett later testified in Marion County Common Pleas Court that he feared the stock market was headed for a crash. His fears turned out to be well-founded—but about 18 months premature; the stock market continued its remarkable run until March 2000.

When some of the sold-out retirees turned to Ricketts & Onda for help, the firm passed the case to Meyer, who used it as his springboard to independence. Meyer left the firm in fall 1999, taking the case against Prudential, which Ricketts didn't want, with him, and in early 2000 formed a partnership with Jami Oliver, a contemporary whom he'd gotten to know while he was clerking at Clark, Perdue.

"I always thought David was a hard-working, conscientious person," Oliver says. Initially, Meyer focused on his securities work and Oliver on her personal injury practice. After a while, however, since neither attorney was knowledgeable in the other partner's area of practice, they decided to split up. The two are still friends, says Oliver, and each refers clients to the other.



"When David says he's the only game in town, it's true," says defense attorney Michael Ungar. "He has a significant section of the middle of the state. There may be somebody else, but I think I'd know of them."

THE BIG SCORE

Meyer soon realized he'd need help if he wanted to do battle with Prudential Securities. Not long after taking the case, he called Mark Maddox, an Indianapolis lawyer and former Indiana state securities commissioner. Maddox and his law partner, Thomas Hargett, wound up joining Meyer as legal counsel for the plaintiffs.

An early challenge was to convince Marion County Common Pleas Judge Richard Rogers to certify the case as a class action, a rare occurrence in investment fraud litigation. "It is unusual to get a class certified because the events that give rise to a lawsuit must be very similar," Maddox says.

Eventually, Rogers ruled that the plaintiffs did indeed constitute a class: They'd all been sold out by the same broker, at the same time, for the same reason. With class certification, Meyer was able to keep his case in court and avoid binding arbitration, which is an investor's only recourse in most broker disputes these days.

Pretrial proceedings dragged on for more than two years, but finally the case came to trial in September 2002. After six

weeks of testimony, the jury awarded Meyer's clients \$7 million in compensatory damages and a whopping \$250 million in punitive damages—reportedly the largest class action award in a securities case in American history.

Why was the punitive award so large? "The jury wanted to punish Prudential for intentionally breaching the fiduciary duties they owed to their clients," Meyer says.

Michael Ungar, a Cleveland lawyer who represented Jeffrey Pickett, labels the \$250 million award "just preposterous." In May, attorneys gathered in Rogers' Marion County courtroom to argue defense motions asking the judge to set aside the verdict or reduce the damages. It's likely that no matter which side wins the next round, the case will be appealed, possibly all the way to the Ohio Supreme Court. While litigation drags on, neither Meyer nor his retired clients will see a dime.

THE NEXT BIG THING

It didn't take long for word of Meyer's victory to get around. Since the Prudential decision, he says, he's been bombarded with calls from investors claiming stockbroker malpractice. By early June he'd added another lawyer to handle nearly 100 active arbitration files, plus some possible class actions. Another 28 potential claims were under review.

Meyer's on the Ohio speaker circuit, too. He says he travels several times a month, speaking mostly to groups of retirees, listening to their complaints and offering advice. Ultimately, of course, he's also hunting for new clients. "David is a marketing genius," says Oliver, "and everything he touches turns to gold."

Meyer says his typical client is a blue-collar retiree from a small town who's worked for the same employer for decades, built up a handsome retirement fund and turned to a broker for financial advice. When the broker puts a client's money into inappropriate investments, churns or otherwise mishandles the account, it's Meyer time.

Soon, Meyer says, he expects to have a whole new class of clients—investors who relied on bogus stock recommendations from "research analysts" who were puffing their employers' investment banking customers. On April 27, New York Attorney General Eliot Spitzer and the Securities and Exchange Commission announced that 10 major brokerage firms had agreed to pay \$1.4 billion—that's *billion*—to settle claims by investors who bought stock based on tainted research.

If you bought WorldCom stock because you believed the "strong buy" recommendation of Salomon Smith Barney's uber-analyst, Jack Grubman, you may be eligible for a piece of the \$1.4 billion. If you relied on

Merrill Lynch's tech guru, Henry Blodget, when you latched onto shares of a doomed dot-com company, get in line for your check.

The settlement "was an historic moment for the investing public," Meyer says. It "gives us access to evidence uncovered by Spitzer and his team that was undiscoverable until then. Regulators are releasing information into the public domain that allow securities lawyers to establish that the recommendations from an analyst were misleading, inaccurate or fraudulent."

Meyer markets himself as the only Central Ohio lawyer whose firm practices exclusively in investor representation. He utilizes the services of public relations pitchmen who dish out press releases quoting Meyer whenever anything remotely related to investment claims unfolds.

Recently, Meyer and two of the firms he worked with on the Prudential case have launched a joint marketing campaign to alert investors about the Spitzer settlement. "If you had an account with any of these 10 firms involved in the investigation and settlement and bought a 'covered' stock recommended by one of their brokers, you may have a claim," says the lawyers' website (wallstreetclaims.com). "Don't put the chance of recovering your investment losses in the hands of just any attorney. Hire the experience and collective resources of three firms that have teamed up to aggressively pursue the rights of aggrieved investors."

Meyer says the trio of law firms has set up a sophisticated telephone intake system to screen prospective clients; he's anticipating dozens, perhaps hundreds of new clients—not to mention millions in contingent legal fees when those clients recover money from the brokerage firms. It won't be easy, though. "Brokerage firms will fight these cases, and we're going to have to work hard," Meyer says.

"I just tried my first tainted research/analyst case," says Ungar, who represents securities firms as head of Ulmer & Berne's growing broker and dealer practice. "There is an expectation there will be more customer arbitration complaints filed [as a result of the Spitzer settlement], but I don't know how successful they will be. The plaintiffs' bar will have problems arguing their clients relied solely on their brokers' advice."

THE PRODIGY

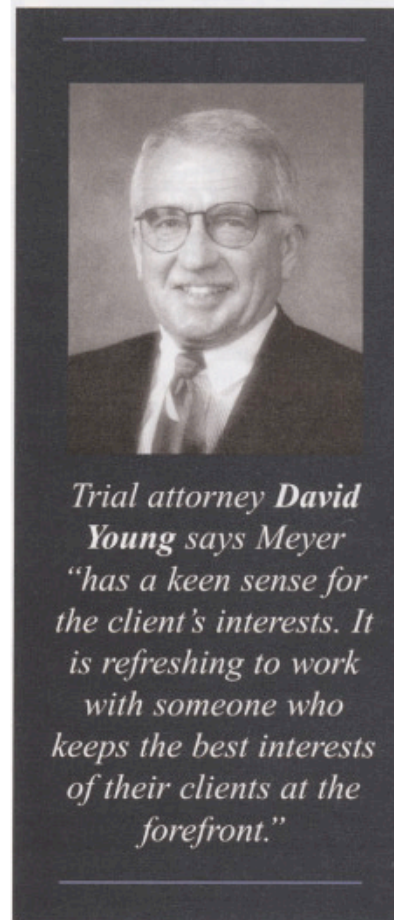
Hargett says if you consider yourself a bilked investor, David Meyer is the "go-to" guy in Ohio: "He is a quick study, which benefits his clients, and he knows both Ohio and federal securities laws."

Is Meyer as good as he thinks he is? "There are some guys out there who are prodigies," says Maddox. "Most lawyers

who are reasonably bright can pick up this area of the law within five years, but David is beyond that curve. There is nobody out there like David Meyer."

"Dave was well ahead of his time even as a second- or third-year associate," says Ricketts, his former boss.

David Young, a veteran litigator and Squire, Sanders & Dempsey partner who joined the plaintiffs' legal team in the Prudential case after the jury decision, says Meyer "has a keen sense for the client's in-



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terests. It is refreshing to work with someone who keeps the best interests of their clients at the forefront. And he is a rarity because he developed a fine specialty at a time when it's needed."

Former client Julie Herman is equally positive. "He is so personable that I don't know how someone couldn't like him," says Herman, a widow who lives in Mount Vernon. Meyer successfully argued Herman's arbitration case, recouping from her broker money the Internal Revenue Service assessed her after the broker converted her IRA into a Roth IRA without her consent.

Herman says when she realized she needed a lawyer, a friend gave her the names of two who might be able to help. "When I called the first one and told him

my story, he said, 'You won't be able to afford me.'" Herman recalls. Meyer, on the other hand, immediately offered to meet her in Mount Vernon.

Even courtroom opponents are complimentary. "When David says he's the only game in town, it's true," says Ungar. "He has a significant section of the middle of the state. There may be somebody else, but I think I'd know of them."

"David zealously represents his clients," says lawyer Anne Larkin, who met Meyer when she handled brokerage defense cases for the Columbus law firm of Carlisle Patchen & Murphy. "It's a pleasure to work with an attorney like David who is knowledgeable about the industry he works in."

THE BUCKEYE BLUES

Although Herman was thrilled that Meyer won her case, she still didn't recoup all the money she'd lost; Meyer got part of it. "Ohio Securities laws make it difficult for a claimant to recover attorney fees from the broker, so attorney fees are paid from the client's award," Meyer says. Typically, he charges clients a contingent fee—one-third of whatever he recovers.

It's often feast or famine for lawyers who work on contingency. Win a \$12 million judgment and you may cash a check for \$4 million. Lose and you get nothing. Sometimes, even when you win, you wait a long time for one of those big checks. Meyer won't say how much he's due in the Marion case, but he has yet to see any of the money.

Hargett says Ohio's securities laws are unfriendly to wronged investors: "Protections provided by the Ohio legislature stink. They are among the worst in the nation. Ohio's legislative body should be embarrassed by their one-sided laws."

Among nearby states, Hargett says, Indiana, Kentucky, Virginia and Michigan all allow courts to make brokerages pay plaintiffs' legal fees. But Ohio is "extremely pro-securities, so they make it more difficult and expensive to sue." Some states allow plaintiffs three years to file a claim, beginning on the date they discover they've been ripped off. Beginning in September, Ohio's statute of limitations for filing an arbitration claim is only two years from the date of discovery or five years from the date of the sale, whichever is shorter. It's also difficult in Ohio to recover lost interest—the money you could have earned if you hadn't bought the bad security.

None of those hurdles seem daunting to David Meyer, though. He's a man on a mission, and right now representing screwed investors looks like a pretty good mission to be on. ♦

Tami Kamin-Meyer is a freelance writer and lawyer who lives in Bexley. She is not related to David P. Meyer.