NEW YORK POST

BROKER SANDS IS PROBED BY NASD

JENNY ANDERSON

The National Association of Securities Dealers is probing Sands Brothers, a New York brokerage firm, for dodging payments to clients who have successfully sued them, sources told The Post.

Regulators also are investigating practices that landed the firm and its brokers in investors' suits to begin with, sources said.

The firm and its principals, Martin and Steven Sands, have not paid a $260,000 arbitration award to Spine Surgery Inc., a small Oklahoma-based retirement fund, which claimed the firm sold it inappropriate investments.

Sands Brothers has not paid the claim and the NYSE cannot enforce it because the New York based investment company resigned from being a member of the Big Board in April 2003.

Sands Brothers has filed a motion to have that award dismissed which it is legally permitted to do but the firm's pattern of delaying tactics and legal maneuverings, as well as the charges that led to the arbitration awards, sparked a NASD examination.

A spokeswoman for NASD said the agency could not comment on regulatory matters.

"Sands Brothers knows of no current investigation, formal or informal," said **Richard Roth**, who represented Sands in the Spine Surgery arbitration. He denied that the firm had refused to make payments. "The firm does not just not pay awards. There are two cases we are moving to vacate and the grounds are unbelievably strong," he contended, adding that Sands had previously won two major motions to have massive NYSE arbitrations against the firm vacated.

"Arbitration is supposed to be a final process," said William Federman, a lawyer for Spine Surgery. "They can drag this out until they go out of business, even though my client won."

But even claims that are successfully secured through arbitration can be contested.

Last week, a NYSE arbitration panel awarded investor Jay Hoge damages of $3.1 million against Sands Brothers for making unauthorized trades and failing to properly protect a large stock position.

The panel ordered Sands Brothers to pay Hoge $2.1 million in compensatory damages and $1 million in punitive damages.

Roth called that award "outrageous" and said the firm had moved to vacate that award. A large part of the award was related to a single stock transaction, a hedge which **Roth** says was executed by Bank of America. The arbitration panel nonetheless awarded Hoge the significant amount. Hoge's attorney Philip Aidikoff has a different take on the attempt to overturn the claim.

"It is exactly a delay tactic. It buys them time," said Aidikoff. "Maybe they will go out of business; they see it as a way of negotiating."

New York Post. Monday. July 26. 2004 nypost.com