

# Morningstar, Prudential Face Class Action Over Robo-Adviser

By **Diana Novak Jones**

Law360, Chicago (August 4, 2017, 2:55 PM EDT) -- Morningstar Inc. and two retirement-focused subsidiaries of Prudential Financial Inc. were hit with a proposed class action in Illinois federal court Thursday, with investors accusing the companies of colluding to design a robo-adviser program to steer them toward investments that paid Prudential high fees.

The suit, filed by an investor in a 401(k) program for employees of pest control company Rollins Inc., claims Prudential Investment Management Services Inc. and Prudential Retirement Insurance and Annuity Company worked with Morningstar to develop robo-adviser software GoalMaker, designing it to recommend expensive investments that earned Prudential millions in fees.

The alleged scheme impacted investors in more than 500 retirement plans across the country and violated the Racketeer Influenced and Corrupt Organizations Act, according to the filing.

"Plaintiff and the other participants in the plans used and were injured by this innocuous-sounding 'investment advice' program — which in reality was a predatory racketeering enterprise developed, maintained and marketed by defendants," the suit claims.

Citing George Washington Plunkitt, leader of the famously corrupt Manhattan Democratic Party at Tammany Hall in New York City, Prudential and Morningstar "seen their opportunities and they took 'em," named plaintiff Michael D. Green said in the suit.

A spokeswoman for Prudential declined to comment on the suit Friday. Representatives for Morningstar did not respond to requests for comment.

Prudential is the administrator of the Rollins plan that Green is a member of, according to the suit. For no charge, it offers retirement investors the use of Morningstar's GoalMaker, which takes information about the investor's age, income and savings rate and uses it to allocate their money into the plan's investment options.

Of the 16 different funds members of the Rollins plan are free to invest in, GoalMaker only invests in seven, according to the suit. Those seven include all of the most expensive funds, some of which share revenue with Prudential, the suit claims, while excluding the least expensive funds.

As evidence the two worked together, the suit points to a marketing presentation explaining that Morningstar built GoalMaker to Prudential's specifications. Morningstar benefited indirectly by Prudential's decision to continue their business relationship with the investment analysis company, the suit claims.

The fee disclosures Prudential gives to its plan participants say nothing about the alleged kickbacks they are receiving, according to the suit.

The suit is brought on behalf of anyone who invested in a retirement plan that offered them GoalMaker over the past four years. If the court finds that the defendants concealed facts that would have alerted the investors to the alleged problems with the program, the suit asks the class period to be extended from the date GoalMaker was first offered through the date of judgment.

The suit is seeking compensatory damages, treble damages and attorneys' fees.

The proposed class is represented by Austin Tighe and Michael Angelovich of Nix Patterson & Roach LLP and Garrett Wotkyns, Todd Schneider, James Bloom, Kyle Bates and John Nestico of Schneider Wallace Cottrell Konecky Wotkyns LLP.

The case is Michael D. Green et al v. Morningstar Inc. et al, case number 1:17-cv-05652 in the U.S. District Court for the Northern District of Illinois.

--Editing by Philip Shea.