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Ameriprise Says LPL Uses Recruits To Harvest Rivals' Secrets

By **Lauren Berg**

Law360 (July 30, 2024, 11:39 PM EDT) -- LPL Financial should be barred from using any trade secrets and confidential client information it has harvested from Ameriprise Financial through the recruitment of its competitors' financial advisers, Ameriprise told a California federal judge Tuesday in alleging LPL has violated legal, regulatory and industry rules.

In a **complaint** for preliminary injunctive relief, Ameriprise wants to stop LPL from using or disclosing Ameriprise's confidential information and stop it from destroying any such records or data, while Ameriprise pursues damages and permanent injunctive relief through arbitration before the Financial Industry Regulatory Authority.

Both Ameriprise and LPL are signatories to the Protocol for Broker Recruiting — a "litigation forbearance agreement specific to the financial industry which governs the conduct of an adviser" moving from one protocol-signatory firm to another — which only allows an adviser to take a list of their clients and limited contact information, according to the complaint.

If an adviser breaks the rules, they are no longer protected by the protocol, the suit states.

But LPL knowingly encourages the advisers it recruits from Ameriprise and other firms to violate the terms of the protocol by bringing confidential information with them "in order to rapidly and unfairly transition business from Ameriprise to LPL," according to the suit.

LPL has provided recruits with tools and instructions for harvesting Ameriprise's confidential information, including asking them to make "bulk upload spreadsheets," the complaint states. These recruits have then gathered trade secrets and other sensitive information, including clients' Social Security numbers, account values, securities values and account information, according to the suit.

"This far exceeds the limited types and nature of information that LPL has agreed — by becoming a signatory to the protocol — that advisers can bring with them from another protocol firm," Ameriprise said.

"Moreover, LPL encourages recruits to provide LPL the harvested Ameriprise confidential information immediately upon affiliation with LPL and in at least one case even engaged in a workaround to allow this to happen before the adviser's license transferred to LPL," it said. "Within short order following the recruits' respective transitions to LPL, LPL would upload the improperly obtained Ameriprise confidential information to LPL's systems."

What's more, LPL doesn't make any effort to verify whether the recruits gave the clients an opportunity to opt out of or consent to their private and confidential information being shared with LPL, according to the complaint.

Just this year alone, LPL has hired nearly 800 representatives, a small percentage of whom came from Ameriprise, the suit states. But a large percentage of those former Ameriprise representatives have engaged in the misappropriation of their former employer's confidential information, according to the suit.

For instance, in April, LPL got a team of advisers to take bankers boxes full of confidential documents from Ameriprise premises just before they joined LPL, Ameriprise said. Those advisers even tried to

solicit clients before they had even resigned from Ameriprise "to get a jump-start on their transition to LPL," the complaint states.

That incident led to Ameriprise **last month suing** two of the former employees, a father-son duo, saying the men took boxes of confidential documents "in the dark of the night" to transfer to their new roles at LPL.

A couple of weeks later, Mitchell R. McCann and his son, Wesley McCann, and Ameriprise told a Michigan federal judge they had agreed to a **temporary injunction** against the McCanns barring the two from trying to convince Ameriprise clients to part ways with the company.

The McCanns are also prohibited from using or disclosing any confidential or proprietary information they had from their time in Ameriprise's employment and to turn over any confidential information they have about the company's clients, employees and business.

In its suit Tuesday, Ameriprise said, "Intentional mass misappropriation is LPL's pattern and practice across the country. It must be enjoined."

"This is an industry-wide unfair scheme by LPL," Ameriprise added, noting that other companies, including Morgan Stanley, have had similar misappropriation of trade secrets issues with LPL. "LPL is aware that this confidential information holds enormous value; indeed, LPL capitalizes on such economic value and receives a substantial windfall attributable to the theft of Ameriprise confidential information."

Along with injunctive relief, Ameriprise's suit claims breach of contract of the protocol for broker recruiting, misappropriation of trade secrets, tortious interference, unfair competition and unjust enrichment.

Representatives for the parties did not immediately respond to requests for comment Tuesday evening.

Ameriprise is represented by Michael S. Taaffe, Justin P. Senior and James E. Fanto of Shumaker Loop & Kendrick LLP and Greg A. Garbacz, Daniel S. Agle and Irean Z. Swan of Klinedinst PC.

Counsel information for LPL Financial was not immediately available.

The suit is Ameriprise Financial Services LLC v. LPL Financial LLC, case number 3:24-cv-01333, in the U.S. District Court for the Southern District of California.

--Additional reporting by Sydney Price and Emilie Ruscoe. Editing by Michael Watanabe.