

MARKETS | Updated July 5, 2012, 2:25 p.m. ET

## Goldman Dealt Setback in Bayou Case

By LIZ MOYER

Goldman Sachs Group Inc. was handed another setback in its efforts to quash a \$20.6 million arbitration award that favored unsecured creditors of defunct hedge fund Bayou Group LLC.

Bayou's creditors had accused Goldman Sachs Execution & Clearing LP of ignoring signs of fraud at the hedge fund run by Samuel Israel III before it imploded in 2005. They took the matter to arbitration and won the award in a June 2010 decision.

A federal appeals court sided with a lower court this week in upholding the arbitration decision.

### Read the Order

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT  
SUMMARY ORDER

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As a stated term of the United States Court of Appeals for the Second Circuit, held in the District of Columbia, Federal States Courtroom, 400 Park Avenue, 11th Floor, New York, NY 10022, on the 7<sup>th</sup> day of July, 2012, was issued hereto.

PRESENT: JOSEPH A. McCAULEY, JR.  
ROBERT D. SACHS  
GISEARD E. D'AMICO  
Clerk of Court

GOLDMAN SACHS EXECUTION & CLEARING LP  
L.P. BY STEVE LUBINER, ESQ., L.P.

Goldman, with the aid of the Securities Industry and Financial Markets Association, has been fighting the award, saying it would have a chilling effect on firms that handle transactions for hedge-fund clients.

Goldman now has to decide whether to pursue the matter further, either by petitioning the Supreme Court or by seeking a rehearing in the appeals court. A Goldman spokeswoman declined to comment. A spokeswoman for Sifma, the securities industry's main lobbying group, declined to comment.

John Rich, a partner at Rich, Intelisano & Katz LLP, the firm representing the Bayou creditors, said his clients "are gratified that they are finally close to recouping a substantial part of

their losses."

U.S. District Judge [Jed Rakoff](#) confirmed the arbitration award in November 2010, and Goldman appealed to the U.S. Court of Appeals for the Second Circuit.

The Bayou award, and Goldman's fight to overturn it, comes as regulators continue to pursue Ponzi schemes and other frauds in the wake of the financial crisis.

Lawyers not involved in the Bayou case have said the arbitration ruling, if upheld, could raise the standards of oversight required of banks that clear trades for hedge funds and other entities.

In a friend-of-the-court brief supporting Goldman's stance, Sifma said the arbitration ruling would "divert the focus of clearing firms from their public-policy-mandated task to clear and settle" the millions of trades handled by them every day.

Goldman has faced other legal setbacks of late. In March, its clearing arm agreed to pay \$7 million to the Commodity Futures Trading Commission over allegations of supervision failures in handling accounts for a broker-dealer client. Goldman neither admitted nor denied wrongdoing.

And, earlier this year, a federal judge in Florida approved Goldman's \$9.8 million settlement tied to a Florida Ponzi scheme that cost investors \$168 million. Goldman wasn't accused of wrongdoing in that case, but it cleared trades for Shoreline Trading Group LLC, the broker for the fund at the center of the scheme, which was run by Arthur Nadel. Mr. Nadel, a former money manager, pleaded guilty to 15 fraud counts in 2010 and died in prison in April.

Goldman lately has been cutting ties to brokers that steer hedge-fund trades its way, from more than two dozen two years ago to a handful now. The firm reportedly also is interested in selling its hedge-fund-administration business, which handles back-office tasks like accounting, transaction settlement and maintenance of books and records.

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