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Investor who lost nest egg awarded \$2.3-million

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MONTREAL

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A 73-year-old Quebec man celebrated yesterday after the Supreme Court of Canada awarded him \$2.3-million for huge losses on his retirement nest egg attributed to a negligent stockbroker.

Armand Laflamme and his nine children gathered at his home in St-Appolinaire, near Quebec City, to savour the victory after a 10-year battle whose outcome underscores the fiduciary obligations of the broker-client relationship.

"My client is very very happy with the decision," said Mr. Laflamme's lawyer, Serge Létourneau.

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"He's very impressed with having obtained due justice from the Supreme Court."

In a 7-0 decision, the court upheld a ruling that Mr. Laflamme's broker, Jules Roy, and investment firm at the time, Prudential-Bache Commodities Canada Ltd., breached fiduciary duties by placing most of Mr. Laflamme's \$2-million in retirement money in high-risk speculative investments.

The decision overturns an earlier Quebec Court of Appeal decision that ruled Mr. Laflamme was only entitled to about \$70,000 because he and his family were in a position to take matters into their own hands but did not.

The Supreme Court decided that Mr. Roy "failed to comply with the conduct required of a prudent and diligent manager, in that he failed to construct an organized and

diver portfolio, carried out transactions that were inconsistent with the client's general instructions, acquired speculative securities and failed to have regard to his client's investment objectives," Mr. Justice Charles Gonthier said in his written reasons.

Edward Aronoff, the lawyer acting for Mr. Roy and Mr. Roy's former brokerage, said yesterday Mr. Roy was "unfairly maligned" in the case, which wended its way through Quebec courts.

"He was not the dishonest, disreputable person he was made out to be," Mr. Aronoff said.

Acting on the advice of his accountant, Mr. Laflamme and his son Benôit met in April, 1987, with Mr. Roy, who was at the time a securities dealer in the Montreal office of Burns Fry. Mr. Laflamme, who had only a Grade 4 education and no investment experience, was looking for a place to put \$2.2-million in proceeds from the sale of his share of the door and window business he owned with his brother. He planned to use the money for his retirement.

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Between May, 1987, and April, 1988, Mr. Roy made investments in a variety of Canadian and U.S. vehicles, including securities, warrants, call options, put options, mutual funds, debentures and government bonds.

The investments led to a loss of about \$200,000.

In April, 1988, Mr. Roy took Mr. Laflamme's account with him when he left Burns Fry (now part of BMO Nesbitt Burns) to join Prudential-Bache Commodities Canada, which has since been absorbed by the parent company, **Prudential Securities Inc.** of New York.

The Laflamme family members were stunned to discover, in June of 1988, that Mr. Roy was managing the portfolio on margin without their knowledge and that a number of the investments were speculative and not appropriate to a retirement fund, according to the facts in the Supreme Court decision.

Mr. Laflamme's daughter, Suzanne, wrote to Mr. Roy on July 15, 1988, advising him to limit stock market investments to \$500,000 and to no longer use a line of credit.

"Over the next few months, the position of the portfolio deteriorated, while interest on the line of credit, and Roy's commissions, increased," the court document said.

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A second letter was sent in November, and in May of 1989, the Laflamme family began to intervene more directly in Mr. Roy's discretionary decisions.

The family finally closed the account in March, 1990, after it suffered significant losses.

The crux of the Supreme Court decision is that the client-broker relationship in this case was a discretionary one in which the Laflamme family trusted Mr. Roy to follow the know-your-client rule.

Mr. Aronoff said the argument presented by his side is that the account became a non-discretionary account at the moment when the Laflamme family intervened.

Mr. Aronoff added Prudential has indicated it will undertake to pay the damages, which come to \$924,374 plus interest and costs.

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