

BFA Liquidation Trust v. Arthur Andersen, LLP

COURT: Arizona Superior Court, Maricopa County

CASE NUMBER: Case No. CV 99-19093

On May 6, 2002, Arthur Andersen ("Andersen") agreed to pay \$217 million to settle this accounting malpractice litigation resulting from Andersen's involvement in the November 1999 collapse of the Baptist Foundation of Arizona ("BFA"), the largest non-profit bankruptcy in United States history. At issue were allegations that Andersen, BFA's former auditor, had been negligent and breached its fiduciary duties in failing to disclose serious financial improprieties by former BFA senior managers, even after a series of whistleblowers alerted Andersen to the ongoing fraud. These oversights of accounting work, which were improper under Generally Accepted Accounting Principles ("GAAP"), allowed undisclosed losses to escalate to hundreds of million of dollars, and ultimately resulted in BFA's demise.

Founded in 1948 to raise money for Southern Baptist causes, BFA and its subsidiaries and affiliates had marketed securities throughout the United States as retirement and investment vehicles for investors, and served as a custodian for tax-deferred Individual Retirement Accounts ("IRAs"). At the time BFA filed for bankruptcy in November 1999, it had total liabilities of approximately \$650 million and listed assets of approximately \$290 million. BFA's liabilities included approximately \$570 million owed to over 11,000 investors. Pursuant to a reorganization plan approved by the Bankruptcy Court, the BFA Liquidation Trust ("Trust") was established to wind up the affairs of BFA. The reorganization plan provides that any net recovery from litigation pursued on behalf of the Trust will flow to the investors who purchased securities from BFA.

The settlement was agreed to on the sixth day of what was scheduled to be a three month trial before a Phoenix jury. The Trust sought \$155 million in compensatory damages for loss of BFA's assets and significant punitive damages. The \$217 million recovery is the second largest amount ever paid by a "Big Five" (now "Big Four") accounting firm to settle litigation not associated with the Savings & Loan crisis.

At the time of trial, there was no guarantee that Andersen (now defunct) would still be a viable entity from which to recover a judgment of any kind. Now, with the malpractice settlement, past and prospective asset sales and a related \$21 million settlement with BFA's former law firm, it was expected that BFA investors would recover over 70% of losses, an outstanding result considering the risks involved with prosecuting the case.