

## **MICHAEL SERRICCHIO'S TESTIMONY**

At the time of the 9/11 terrorist attacks, I was a member of the United States Air Force Reserves. On September 30, 2001, I was called to active duty to serve in the War on Terror. At that time, I was employed by Prudential Securities as a financial advisor. I managed, with my partner, approximately 250 accounts, with over \$11 million in assets under management. I was earning in excess of \$75,000 per year.

When I returned from active duty, two years later, I was offered to return as a financial advisor, yet I was only offered a handful of my former accounts to manage. I was told that I could have an advance of \$2000 per month, that I would be required to repay from any commissions earned through "cold calling" new accounts or from my savings. Neither my prior earnings, my prior accounts, or my prior assets under management were taken into consideration in the reinstatement offer. In short, I was asked to start my career over from scratch. As there was no way I could support either myself, or my wife and two-year old daughter under the terms provided, I was forced to seek employment elsewhere.

I am here today to describe what happened to me in an effort to apprise this Committee of the tactics employers are taking to avoid their responsibilities under USERRA and the significant impact such tactics have on the lives and families of the service men and women affected, on the morale of the entire armed forces, and on the continued vitality of our volunteer armed services.

Briefly stated, here is what happened.

At 28, I was accepted into Morgan Stanley Dean Witter's Financial Advisor Training Program. Over the course of the next 18 months, I successfully built a book of business that produced in excess of \$300,000 in annual gross commissions.

My success as a financial advisor resulted in my being recruited by Prudential. As an incentive to join Prudential, I was paid an upfront-bonus of over \$230,000. I joined Prudential in October 2000 and remained there until I was activated on September 30, 2001. Although I was scheduled for only a one year term, I remained on active duty for more than two years, serving in both Saudi Arabia and in the United States.

I had joined the United States Air Force Reserves when I was 20 years old. For my service in the Reserves, I received, among other recognitions of distinction, a commendation medal, a meritorious service medal, an air force service longevity medal, the airman of the year, and a national defense service ribbon.

After two years of active duty fighting in the War on Terror, I was honorably discharged. I wrote to Wachovia Securities, which five months prior had taken over Prudential's retail brokerage department, informing them that I was seeking reinstatement. No one at Wachovia contacted me for seven weeks and I was not afforded the opportunity to return to work until four months after I had requested reinstatement.

When I was finally allowed to return to work, Wachovia told me that only a handful of my former accounts would be returned to me, accounts that would have produced negligible commissions. Wachovia offered to provide me an *advance* of \$2,000 per month that I would repay through commissions earned on cold calling new accounts or by depleting my savings. Under the terms provided, the likelihood of my

being able to sustain myself, or my family, was minimal. Worse yet, there was a high likelihood that I would owe Wachovia money at the end of each month.

Wachovia did not offer to pay me the salary I had been earning prior to my activation while I attempted to rebuild my business. Wachovia did not offer to give me preferential treatment when new unsolicited accounts came into the office. In essence, even though I had previously been managing 250 accounts, \$11 million in assets, and earning in excess of \$75,000, Wachovia wanted me to start my career over by making cold calls. Wachovia knew that I had a wife and family to support. Wachovia knew that I could neither support myself, nor my family, under the terms provided.

I rejected Wachovia's offer of reinstatement and brought suit under USERRA. Wachovia has defended its offer of reinstatement, claiming that under USERRA it was not required to reinstate me to a position that reflected my prior earnings, accounts or assets under management. In addition, Wachovia has responded by instituting a counter claim against me, seeking to force me to repay the balance of the original signing bonus Prudential had given me.

As a returning veteran, it scares me that if a prominent company like Wachovia - which publicly boasts about its commitment to veteran employees - is interpreting USERRA to exclude consideration of prior earnings, duties and responsibilities, I can only imagine how other less prominent companies are responding to returning veterans.

Job security is both the heart and soul of USERRA. As this Committee is undoubtedly aware, USERRA was intended to encourage men and women to serve our country by assuring them, that upon their return, their jobs would be promptly waiting for them. Job security for those who are serving, and for those who will be called to serve in

the future, is essential to not only maintain the moral of our troops, but to sustain voluntary guard and reserve armed forces. If our country does not insist on job security to those who serve under the guard and reserve, the continued vitality of our volunteer armed services is in grave danger.