$20B Davis Fund Targeted in Latest Fee Suit

By Beagan Wilcox Volz, Ignites, June 20, 2014 [subscription required]

Davis Selected Advisers is the latest fund firm to be hit with a lawsuit that alleges excessive fees and uses the firm's work as a subadvisor to unaffiliated funds to build its case.

Two investors in the $20.6 billion Davis New York Venture Fund claim that the manager breached its fiduciary duty to the fund's shareholders under the '40 Act by charging excessive management fees.

Davis is also fighting a separate suit filed in 2008 that alleges excessive advisory and 12b-1 fees on the same fund. The suit was dismissed in 2011, but the plaintiff appealed and the case is now before the Ninth Circuit Court of Appeals.

In the June 16 suit, the plaintiffs compare the New York Venture Fund's management fee to the amounts Davis has charged for subadvising unaffiliated funds for John Hancock, Columbia**,** ING and others. The firm's subadvisory fees are significantly lower, although Davis provides "the same or substantially the same" services to those funds that it does for its own product, the plaintiffs argue. Among the specific funds listed are the John Hancock Fundamental Value Trust and the ING Davis New York Venture Portfolio.

The reason for the disparity is that subadvisory fees are negotiated at arm's length with third parties, while the advisory fees are not, the plaintiffs contend in the suit, which was filed in New York federal court.

* * * * *

"I think the plaintiffs are making a good case here that advisory fees should be more in line with subadvisory fees when similar services are being provided, and the disparities shouldn't be as large as they are in some of these cases," says Niels Holch, executive director of the Coalition of Mutual Fund Investors.

Holch notes the plaintiffs' comparison of disclosure that describes Davis's activities as an advisor and its work as a subadvisor.

"It's almost identical," he says.

The growing number of suits in this area will put pressure on the industry to reduce the gap between advisory and subadvisory fees, Holch adds.