

Award
FINRA Dispute Resolution

In the Matter of the Arbitration Between:

Claimants
Michele Billings
Robert Billings

Case Number: 11-01948

vs.

Respondent
Merrill Lynch, Pierce, Fenner & Smith Inc.

Hearing Site: Ft. Lauderdale, Florida

Nature of the Dispute: Customers vs. Member

The case proceeded under the Optional All Public Panel Rule/ All Public Panel

REPRESENTATION OF PARTIES

For Michele Billings and Robert Billings, hereinafter collectively referred to as "Claimants": Jeffrey Erez, Esq., Sonn & Erez, PLC, Fort Lauderdale, Florida.

For Merrill Lynch, Pierce, Fenner & Smith Inc., hereinafter referred to as "Respondent": Peter S. Fruin, Esq. and Julie Wilson Portera, Esq., Maynard Cooper & Gale, PC, Birmingham, Alabama.

CASE INFORMATION

Statement of Claim filed on or about: May 13, 2011.
Claimants signed the Submission Agreement: May 11, 2011.

Statement of Answer filed by Respondent on or about: July 12, 2011.
Respondent signed the Submission Agreement: June 3, 2011.

CASE SUMMARY

Claimants asserted the following causes of action: 1) breach of fiduciary duty; 2) negligence; 3) negligent supervision; 4) fraud; and, 5) breach of contract. The causes of action relate to the purchase of Fannie Mae preferred shares of stock in Claimants' accounts.

Unless specifically admitted in its Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim, Claimants requested compensatory damages in excess of \$1,000,000.00, punitive damages, interest, costs, and such other and further relief as this Panel deemed just and proper.

In its Statement of Answer, Respondent requested that the Statement of Claim be denied, and costs.

At the close of the hearing, Respondent requested expungement of the Central Registration Depository (the "CRD") record of non-parties David Douglas Donaldson ("Donaldson") and Miles Pure ("Pure").

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrators acknowledge that they have each read the pleadings and other materials filed by the parties.

The parties have agreed that the Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

AWARD

After considering the pleadings, the testimony and evidence presented at the recorded, in-person hearing, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Respondent is found liable for breach of fiduciary duty and shall pay to Claimants compensatory damages as follows:

To Claimant Michele Billings: \$668,231.50, pre-judgment interest specifically denied.

To Claimant Robert Billings: \$668,231.50, pre-judgment interest specifically denied.

Non-party Pure's request for expungement of his CRD record is denied.

The Panel recommends the expungement of all references to the above-captioned arbitration from non-party Donaldson's registration records maintained by the CRD, with the understanding that pursuant to Notice to Members 04-16, non-party Donaldson must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

Unless specifically waived in writing by FINRA, parties seeking judicial confirmation of an arbitration award containing expungement relief must name FINRA as an additional party and serve FINRA with all appropriate documents.

Pursuant to Rule 12805 of the Code of Arbitration Procedure (the "Code"), the arbitration panel has made the following Rule 2080 affirmative finding of fact:

The registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds.

The arbitration panel has made the above Rule 2080 finding based on the following reasons:

The Panel heard the evidence presented and the testimony of witnesses. There was credible evidence presented that proved to the Panel that non-party Donaldson was a manager, had no direct involvement with the Claimants and did not handle review of any order tickets.

Any and all relief not specifically addressed herein, including Claimants' request for punitive damages, is denied.

FEES

Pursuant to the Code, the following fees are assessed:

Filing Fees

FINRA Dispute Resolution assessed a filing fee* for each claim:

Initial Claim Filing fee = \$ 1,575.00

**The filing fee is made up of a non-refundable and a refundable portion.*

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, as a party and a member firm Respondent is assessed the following:

Member Surcharge	= \$ 2,250.00
Pre-Hearing Processing Fee	= \$ 750.00
Hearing Processing Fee	= \$ 4,000.00

Hearing Session Fees and Assessments

The Panel has assessed hearing session fees for each session conducted. A session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

Two (2) Pre-hearing sessions with a single arbitrator @ \$450.00/session	= \$ 900.00
Pre-hearing conferences:	
August 7, 2012	1 session
September 13, 2012	1 session

Two (2) Pre-hearing sessions with the Panel @ \$1,200.00/session	= \$ 2,400.00
Pre-hearing conferences:	
October 7, 2011	1 session
September 27, 2012	1 session

Twelve (12) Hearing sessions @ \$1,200.00/session	= \$14,400.00
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Hearing Dates:	October 1, 2012	2 sessions
	October 2, 2012	3 sessions
	October 3, 2012	2 sessions
	October 4, 2012	3 sessions
	October 5, 2012	2 sessions

Total Hearing Session Fees = \$17,700.00

The Panel has assessed \$8,850.00 of the hearing session fees jointly and severally to Claimants.

The Panel has assessed \$8,850.00 of the hearing session fees to Respondent.

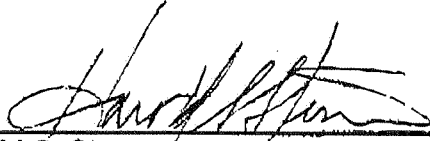
All balances are payable to FINRA Dispute Resolution and are due upon receipt.

ARBITRATION PANEL

Harold S. Stern	-	Public Arbitrator, Presiding Chairperson
David P. Slater	-	Public Arbitrator
Fred Abramoff	-	Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm that I am the individual described herein and who executed this instrument which is my award.

Concurring Arbitrators' Signatures



Harold S. Stern
Public Arbitrator, Presiding Chairperson

10/15/12

Signature Date

David P. Slater
Public Arbitrator

Signature Date

Fred Abramoff
Public Arbitrator

Signature Date

Date of Service (For FINRA Dispute Resolution office use only)

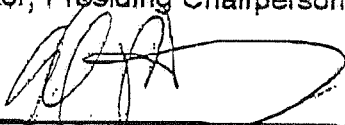
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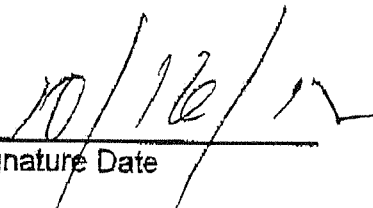
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FINRA Dispute Resolution
Arbitration No. 11-01948
Award Page 5 of 5

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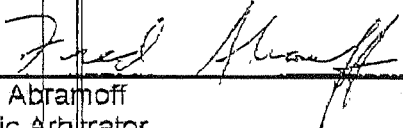
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