

**Award
FINRA Dispute Resolution**

In the Matter of the Arbitration Between:

Claimant
Mary Robin Tipton

Case Number: 12-01384

vs.

Respondent
Merrimac Corporate Securities, Inc.

Hearing Site: Orlando, Florida

Nature of the Dispute: Customer vs. Member

This case was decided by an all-public panel.

REPRESENTATION OF PARTIES

For Claimant Mary Robin Tipton: Stefan Apotheker, Esq., Sonn & Erez, PLC, Miami, Florida.

For Respondent Merrimac Corporate Securities, Inc.: Richard M. Nummi, Esq., Nummi & Associates, P.A., Tampa, Florida.

CASE INFORMATION

Statement of Claim filed on or about: April 11, 2012.
Amended Statement of Claim filed on or about: May 25, 2012.
Mary Robin Tipton signed the Submission Agreement: April 10, 2012.

Answer to Claimant's Amended Statement of Claim filed by Respondent on or about: June 19, 2012.
Merrimac Corporate Securities, Inc. signed the Submission Agreement: July 2, 2012.

Claimant's Motion to Bar Respondent from Presenting Facts and Defenses at the Final Hearing ("Motion to Bar") filed on or about: November 12, 2013.
Respondent's Response to the Motion to Bar filed on or about: November 13, 2013.

CASE SUMMARY

Claimant asserted the following causes of action: breach of fiduciary duty; negligence; negligent supervision; fraud; misrepresentation and omissions; breach of contract; conversion; civil theft; violation of the Florida Securities and Investor Protection Act; violation of sections 10(b) and 20(a) of the Securities and Exchange Act and Rule 10b-5; and violation of sections 12(1) and 20(a) of the Securities and Exchange Act. The causes of action relate to Claimant's investment in a bond issued by The School Wish Foundation, Inc.

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

RELIEF REQUESTED

In the Statement of Claim, as amended, Claimant requested compensatory damages of between \$100,000.00 and \$500,000.00, punitive damages, treble damages for civil theft pursuant to Florida Statutes section 772.11, interest, costs, attorneys' fees and such other and further relief the Panel deemed just and proper.

Respondent did not specifically delineate a relief request.

OTHER ISSUES CONSIDERED AND DECIDED

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

In her Motion to Bar, Claimant asserted, among other things, that Respondent should be barred from presenting facts and defenses at the final hearing due to discovery abuses. In its Response, Respondent asserted, among other things, that it had no intention of withholding any evidence. During the evidentiary hearing, Claimant argued her Motion to Bar. Respondent's counsel opposed the Motion on the grounds that he was recently retained by Respondent and was unfamiliar with the status of discovery. Respondent's counsel indicated that he had delivered certain of the requested documents on the Friday before the hearing. The Panel granted Claimant's Motion and allowed Claimant to proceed with her case but allowed Respondent to cross-examine witnesses. The Panel reserved decision on the issue of Respondent providing a defense until the close of Claimant's case.

On the next to last day of the hearing, Respondent filed a Statement of Answer and Affirmative Defenses. The Panel believed that to permit the filing of the document at that late date would have unduly prejudiced Claimant. Respondent was permitted to provide a defense but was not permitted to submit testimony or evidence regarding its affirmative defenses. The Statement of Answer submitted by Respondent was not accepted for the purpose submitted, but was treated as a pre-trial brief.

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 hearing, and the post-hearing submissions (if any), the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent is liable for gross negligence and breach of fiduciary duty and shall pay to Claimant compensatory damages in the sum of \$60,000.00 plus interest at the rate of 7% per annum accruing from June 16, 2008, until the date of payment of the

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Award. The interest awarded is hereby reduced by \$958.90 to reflect funds Claimant received from her investments.

2. Respondent is liable and shall pay to Claimant punitive damages in the sum of \$60,000.00 due to Respondent's gross negligence in the operation and supervision of its branch office.
3. Respondent is liable and shall pay to Claimant the sum of \$300,00 representing reimbursement of the non-refundable portion of the claim filing fee previously paid by Claimant to FINRA Dispute Resolution.
4. Claimant's claims pursuant to the Florida Securities and Investor Protection Act are denied.
5. Any and all claims for relief not specifically addressed herein, including Claimant's requests for treble damages and attorneys' fees, are denied.

FEES

Pursuant to the Code of Arbitration Procedure, the following fees are assessed:

Filing Fees

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

Initial Claim Filing Fee = \$ 1,800.00

**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, Respondent is assessed the following:

Member Surcharge	= \$ 2,800.00
Pre-Hearing Processing Fee	= \$ 750.00
Hearing Processing Fee	= \$ 5,000.00

Discovery-Related Motion Fees

Fees apply for each decision rendered on a discovery-related motion.

One (1) Decision on a discovery-related motion on the papers with one (1) arbitrator @ \$200.00	= \$ 200.00
Claimant submitted one (1) discovery-related motion	

Total Discovery-Related Motion Fees	= \$ 200.00
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The Panel has assessed \$100.00 of the discovery-related motion fee to Claimant.

The Panel has assessed \$100.00 of the discovery-related motion fee to Respondent.

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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:

One (1) Pre-hearing session with the Panel @ \$1,200.00/session	= \$ 1,200.00
Pre-hearing conference: September 4, 2012 1 session	
Five (5) Hearing sessions @ \$1,200.00/session	= \$ 6,000.00
Hearing Dates: December 9, 2013 2 sessions	
December 10, 2013 2 sessions	
December 11, 2013 1 session	
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Total Hearing Session Fees	= \$ 7,200.00

The Panel has assessed the entire hearing session fees of \$7,200.00 to Respondent.

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


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ARBITRATION PANEL

Robert J. Walter	-	Public Arbitrator, Presiding Chairperson
Raymond E. Cornelius	-	Public Arbitrator
Jennifer Marie Eberly	-	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



 Robert J. Walter
 Public Arbitrator, Presiding Chairperson

1/3/14

 Signature Date

 Raymond E. Cornelius
 Public Arbitrator

 Signature Date

 Jennifer Marie Eberly
 Public Arbitrator

 Signature Date

1/6/14

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