

**Award
FINRA Dispute Resolution**

In the Matter of the Arbitration Between:

Claimant
Carl Cosio

Case Number: 09-05793

Respondents
Merrill Lynch, Pierce, Fenner & Smith Inc.
UBS Financial Services Inc.
Rafael A. Calleja

Hearing Site: Tampa, Florida

Nature of the Dispute: Customer vs. Member and Associated Person.

REPRESENTATION OF PARTIES

For Carl Cosio, hereinafter referred to as "Claimant": Randall C. Place, Esq. and Sara E. Hanley, Esq., The Law Offices of Place and Hanley, PLLC, Asheville, North Carolina.

For Respondent Merrill Lynch, Pierce, Fenner & Smith Inc. ("Merrill Lynch"): Neil S. Baritz, Esq., Baritz & Colman LLP, Boca Raton, Florida.

For Respondent UBS Financial Services Inc. ("UBS"): Alise Johnson Henry, Esq. and Jonathan Schwartz, Esq., Bressler, Amery & Ross, Miramar, Florida.

For Respondent Rafael A. Calleja ("Calleja"): Frederick S. Schriels, Esq. and Colleen Fitzgerald, Esq., Gray Robinson, Tampa, Florida.

CASE INFORMATION

Statement of Claim filed on or about: October 6, 2009.
Claimant signed the Submission Agreement: September 24, 2009.
Statement of Answer filed by Respondent Calleja on or about: February 25, 2010.
Respondent Calleja signed the Submission Agreement: November 9, 2009.
Statement of Answer filed by Respondent Merrill Lynch on or about: February 26, 2010.
Respondent Merrill Lynch signed the Submission Agreement: November 2, 2009.
Statement of Answer filed by Respondent UBS on or about: April 8, 2010.
Respondent UBS signed the Submission Agreement: November 5, 2009.
Motion in Limine to Exclude and to Preclude Testimony filed by Respondent UBS on or about: July 12, 2011.
Response to Motion in Limine to Exclude and to Preclude Testimony filed by Claimant on or about: July 20, 2011.

CASE SUMMARY

Claimant asserted the following causes of action: 1) violation of FINRA customer suitability standard (Rule 2310); 2) fraud in violation of Fl. Stat. 517; 3) civil theft or

exploitation in violation of Fl. Stat. 772; 4) suitability; 5) breach of fiduciary duty; 6) negligence; and, 7) negligent hiring, retention and supervision; 8) respondeat superior; and, 9) common law fraud. The causes of action relate to the alleged purchase of various unspecified securities and sale of various securities without authorization including, but not limited to, Bank of America Corporation, Exxon Mobil Corp., Motorola Inc., and Southern Company, plus the alleged fraudulent withdrawal of funds from Claimant's accounts.

Unless specifically admitted in their Answers, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested an unspecified amount of compensatory damages, interest at the legal rate from the date of purchase or reasonable market return, attorney's fees, rescission, punitive damages, treble damages, consequential damages, costs, , and such other relief as this Panel deemed just and proper.

At the close of the hearing, Claimant requested compensatory damages in a range from \$151,873.09 to \$4,769,215.14.

In its Statement of Answer, Respondent Merrill Lynch requested that the Panel dismiss Claimants' claim in its entirety, a determination that it is the prevailing party with respect to Claimant's claims for violation of Fl. Statutes, Chapters 517 and 772, costs, and such further relief as this Panel deemed just and proper.

In its Statement of Answer, Respondent UBS requested that the Panel dismiss Claimant's claim in its entirety and costs.

In his Statement of Answer, Respondent Calleja requested that the Panel dismiss Claimants' claim in its entirety, a determination that he is the prevailing party with regard to all of Claimant's claims, including the statutory claims asserted against him, attorneys' fees, costs and such other and further relief as this Panel deemed appropriate.

OTHER ISSUES CONSIDERED AND DECIDED

The Panel acknowledges that they have each read the pleadings and other materials filed by the parties.

On or about July 27, 2011, the Panel issued an Order that deferred ruling on Respondent UBS' Motion in Limine to Exclude and to Preclude Testimony until the final hearing for this matter. Subsequently, the Panel denied Respondent UBS' motion.

On or about August 29, 2011, Claimant notified FINRA Dispute Resolution that he had settled this matter with Respondents Merrill Lynch and Calleja.

During the final hearing, and after Claimant's case-in-chief, Respondent UBS made an ore tenus Motion for a Directed Verdict primarily based on statutes of limitations.

Claimant objected and the Panel heard oral argument on the motion. Subsequently, the Panel denied the motion.

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, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

Respondent UBS is found liable for respondeat superior and shall pay to Claimant compensatory damages in the amount of \$248,874.41, plus pre-judgment interest in the amount of 2.5% per annum from February 10, 2000 until February 1, 2004.

Any and all claims for relief not specifically addressed herein, including Claimant's requests for punitive/treble damages, attorneys' fees, and for claims for relief pursuant to Fl. Stat. §§517 and 772, are denied.

FEES

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

Filing Fees

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

Initial claim filing fee = \$1,250.00

**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, Respondent Merrill Lynch was a party and is a member firm.

Member surcharge = \$1,500.00
Pre-hearing process fee = \$ 750.00
Hearing process fee = \$2,200.00

Respondent UBS is a party and a member firm.

Member surcharge = \$1,500.00
Pre-hearing process fee = \$ 750.00
Hearing process fee = \$2,200.00

Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

May 9 – 13 and May 16-20, 2011, adjournment requested by Respondents Merrill Lynch and Calleja

The Panel has waived the postponement fee.

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 arbitrators, including a pre-hearing conference with the arbitrators, that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with a single arbitrator @ \$450.00/session	= \$ 450.00
Pre-hearing conference: August 18, 2010	1 session
Five (5) Pre-hearing sessions with the Panel @ \$1,000.00/session	= \$ 5,000.00
Pre-hearing conferences: April 14, 2010	1 session
October 21, 2010	1 session
February 25, 2011	1 session
April 21, 2011	1 session
July 11, 2011	1 session
Fifteen (15) Hearing sessions @ \$1,000.00/session	= \$15,000.00
Hearing Dates: August 1, 2011	2 sessions
August 2, 2011	2 sessions
August 3, 2011	2 sessions
August 4, 2011	2 sessions
August 5, 2011	2 sessions
September 7, 2011	2 sessions
September 8, 2011	2 sessions
September 9, 2011	1 session
Total Hearing Session Fees	= \$20,450.00

The Panel has assessed \$6,635.00 of the hearing session fees to Claimant.

The Panel has assessed \$3,885.00 of the hearing session fees to Respondent Merrill Lynch.

The Panel has assessed \$6,045.00 of the hearing session fees to Respondent UBS.

The Panel has assessed \$2,885.00 of the hearing session fees to Respondent Calleja

The Panel has assessed \$1,000.00 of the hearing session fees jointly and severally to Respondents Merrill Lynch, UBS and Calleja.

Administrative Costs

Administrative costs are expenses incurred due to a request by a party for special services beyond the normal administrative services. These include, but are not limited to, additional copies of arbitrator awards, copies of audio transcripts, retrieval of documents from archives, interpreters, and security.

Claimant, expedited delivery of documents to Panel	= \$15.47
Respondent Calleja, expedited delivery of documents to Panel	= \$15.47

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

ARBITRATION PANEL

Muriel Desloovere - *Public Arbitrator, Presiding Chairperson*
David F. Simon - *Public Arbitrator*
William R. Turner - *Non-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

 /s/
Muriel Desloovere
Public Arbitrator, Presiding Chairperson

10/4/11
Signature Date

 /s/
David F. Simon
Public Arbitrator

10/4/11
Signature Date

 /s/
William R. Turner
Non-Public Arbitrator

10/4/11
Signature Date

10/5/11
Date of Service (For FINRA Dispute Resolution use only)


ARBITRATION PANEL

Muriel Desloovere
David F. Simon
William R. Turner

Public Arbitrator, Presiding Chairperson
Public Arbitrator
Non-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



Muriel Desloovere
Public Arbitrator, Presiding Chairperson

Oct. 4, 2011

Signature Date

David F. Simon
Public Arbitrator

Signature Date

William R. Turner
Non-Public Arbitrator

Signature Date

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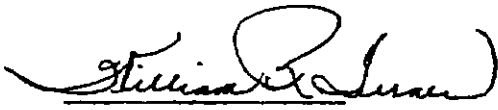
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