

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimant
Robert Aguayo Rosario, for his Retirement Plan

Case Number: 16-00737

vs.

Respondent
Santander Securities, LLC

Hearing Site: San Juan, Puerto Rico

Nature of the Dispute: Customer vs. Member

This case was decided by an all-public panel.

REPRESENTATION OF PARTIES

For Claimant Robert Aguayo Rosario, for his Retirement Plan: Steven D. Toskes, Esq. and Anthony J. Badway, Esq., Klayman & Toskes, P.A., Boca Raton, Florida.

For Respondent Santander Securities, LLC: Jorge I. Peirats, Esq. and Sara Lydia Vélez Santiago, Esq., Pietrantonio Méndez & Alvarez LLC, San Juan, Puerto Rico, and Nicholas Crowell, Esq. and James Heyworth, Esq., Sidley Austin LLP, New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: March 9, 2016.

Robert Aguayo Rosario, for his Retirement Plan signed the Submission Agreement: March 9, 2016.

Statement of Answer filed by Respondent on or about: August 4, 2016.

Santander Securities, LLC signed the Submission Agreement: August 10, 2016.

CASE SUMMARY

Claimant asserted the following causes of action: breach of fiduciary duty; breach of contract; contractual negligence; fraud and constructive fraud; failure to supervise and control; violation of Section 10b of the Exchange Act and Rule 10b-5, and violation of NASD and FINRA rules; and violations of the Puerto Rico Uniform Securities Act 10 L.P.R.A. § 890. The causes of action relate to Claimant's investments in First Puerto Rico bond funds, and Puerto Rico government bonds.

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

RELIEF REQUESTED

In the Statement of Claim, Claimant requested: general and compensatory damages in the amount of approximately \$400,000.00; underperformance damages; costs of these proceedings; attorneys' fees as provided by Puerto Rico law; interest at the legal rate on all sums recovered; and such other and further relief as this Panel deemed just and appropriate.

In the Statement of Answer, Respondent requested: dismissal of the Statement of Claim in its entirety; attorneys' fees; and expungement of all references to this matter from the financial consultants' Central Registration Depository records.

OTHER ISSUES CONSIDERED AND DECIDED

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

Respondent did not pursue its request for expungement during the evidentiary hearing; therefore, the Panel deemed the request to be withdrawn.

The parties present at the hearing 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 and shall pay to Claimant the sum of \$95,000.00 in compensatory damages.
2. Respondent is liable for and shall pay to Claimant interest on the above-stated sum at the Puerto Rico statutory rate per annum from March 9, 2016, until the payment of the Award.
3. Respondent is liable for and shall pay to Claimant the sum of \$40,629.61 in costs.
4. Any and all claims for relief not specifically addressed herein, including the parties' respective requests for attorneys' fees, are denied.

FEES

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

Filing Fees

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

Initial Claim Filing Fee = \$ 1,425.00

**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 = \$ 1,900.00
Member Process Fee = \$ 3,750.00

Discovery-Related Motion Fee

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

Two (2) decisions on discovery-related motions on the papers
with one (1) arbitrator @ \$200.00/decision = \$ 400.00

Respondent submitted two (2) discovery-related motions

Total Discovery-Related Motion Fees = \$ 400.00

The Panel has assessed the total discovery-related motion fees of \$400.00 to Respondent.

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 @ \$1,125.00/session = \$ 1,125.00
Pre-hearing conference: July 7, 2016 1 session

Twelve (12) hearing sessions @ \$1,125.00/session = \$13,500.00
Hearing Dates: October 15, 2018 2 sessions
October 16, 2018 2 sessions
October 17, 2018 2 sessions
October 18, 2018 2 sessions
October 19, 2018 2 sessions
January 28, 2019 1 session
January 29, 2019 1 session

Total Hearing Session Fees = \$14,625.00

The Panel has assessed \$7,312.50 of the hearing session fees to Claimant.

The Panel has assessed \$7,312.50 of the hearing session fees to Respondent.

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

ARBITRATION PANEL

Jane A. Smith	-	Public Arbitrator, Presiding Chairperson
Thomas Joseph Atkinson, Sr.	-	Public Arbitrator
Neil Harvey Smith	-	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 Jane A. Smith jas/

02/11/2019

Jane A. Smith
Public Arbitrator, Presiding Chairperson

Signature Date

Thomas Joseph Atkinson, Sr.
Public Arbitrator

Signature Date

Neil Harvey Smith
Public Arbitrator

Signature Date

2/12/2019

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

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ARBITRATION PANEL

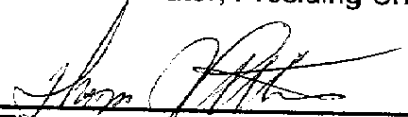
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Thomas Joseph Atkinson, Sr.	-	Public Arbitrator
Neil Harvey Smith	-	Public Arbitrator

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Jane A. Smith
Public Arbitrator, Presiding Chairperson

Signature Date



Thomas Joseph Atkinson, Sr.
Public Arbitrator

1-12-19

Signature Date

Neil Harvey Smith
Public Arbitrator

Signature Date

2/12/2019

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

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Jane A. Smith	-	Public Arbitrator, Presiding Chairperson
Thomas Joseph Atkinson, Sr.	-	Public Arbitrator
Neil Harvey Smith	-	Public Arbitrator

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Jane A. Smith
Public Arbitrator, Presiding Chairperson

Signature Date

Thomas Joseph Atkinson, Sr.
Public Arbitrator

Signature Date

Neil H. Smith

Neil Harvey Smith
Public Arbitrator

February 11, 2019
Signature Date

2/12/2019
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