

Award
FINRA Office of Dispute Resolution

In the Matter of the Arbitration Between:

Claimants
Adelle M. Abdallah
Soraya M. Abdallah

Case Number: 17-01038

vs.

Respondent
FMSBonds, Inc.

Hearing Site: Boston, Massachusetts

Nature of the Dispute: Customers vs. Member

This case was decided by an all-public panel.

REPRESENTATION OF PARTIES

For Claimants Adelle M. Abdallah, and Soraya M. Abdallah: Matthew J. Tuttle, Esq., Pinkham Busny LLP, Woburn, Massachusetts.

For Respondent FMSBonds, Inc.: Sydney A. Marks, Esq. and Dennis Richard, Esq. Richard and Richard, P.A., Miami, Florida.

CASE INFORMATION

Statement of Claim filed on or about: April 24, 2017.

Adelle M. Abdallah signed the Submission Agreement: April 21, 2017.

Soraya M. Abdallah signed the Submission Agreement: April 21, 2017.

Statement of Answer filed by Respondent on or about: July 26, 2017.

FMSBonds, Inc. signed the Submission Agreement: July 26, 2017.

CASE SUMMARY

Claimants asserted the following causes of action: breach of fiduciary duty; breach of an advisor's duty of reasonable care; breach of an advisors's duty to supervise and ensure compliance; negligent and intentional misrepresentation; fraud and deceit; breach of contract and the covenant of good faith and fair dealing; negligence; violations of State Securities Laws prohibiting misrepresentations in connection with trade practices; and violations of applicable NASD Rule of Fair Practice, MSRB, NYSE, FINRA, and American Stock Exchange Rules.

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, Claimants requested unspecified compensatory damages; lost capital; disgorgement; interest; unspecified punitive damages; attorneys' fees; costs; and any further relief the Panel deems just and proper.

In the Statement of Answer, Respondent requested reimbursement of reasonable attorneys' fees' forum fees; and costs.

At the close of hearing, Claimants requested \$414,620.74 in compensatory damages; and costs.

OTHER ISSUES CONSIDERED AND DECIDED

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

During the evidentiary hearing and prior to the conclusion of Claimants' case-in-chief, Respondent filed an oral Motion to Dismiss Claimants' claims for failure to disclose evidence. After due deliberation, the Panel denied Respondent's Motion to Dismiss.

By correspondence dated July 5, 2018, Respondent filed a Motion for Sanctions and Motion to Postpone for failure to comply with discovery orders. On July 9, 2018, Claimants filed an Opposition to Respondent's Motion for Sanctions and Motion to Postpone. On July 13, 2018, Respondent filed a Reply in further support of their Motion for Sanctions and Motion to Postpone. On July 17, 2018, Claimants filed a Sur-Reply in further opposition of Respondent's Motion for Sanctions and Motion to Postpone. On July 18, 2018, Respondent filed a response to Claimants' Sur-Reply stating that it was unauthorized. After due deliberation, in an Order dated July 19, 2018, the Panel granted Respondent's Motion for Sanctions in part. The Panel ordered the Claimants to pay the cost of the July 19, 2018 pre-hearing conference; postponement fees; and cost of a new pre-hearing conference to select hearing dates.

By correspondence dated December 16, 2019, Respondent filed a Motion for Sanctions for failure to comply with discovery orders. On or about December 23, 2019, Claimants filed an Opposition to Respondent's Motion for Sanctions. On or about December 30, 2019, Respondent filed a Reply in further support of their Motion for Sanctions. After due deliberation, in an order dated January 6, 2020, the Panel denied Respondent's Motion for Sanctions.

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, 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 Claimants the sum of \$375,000.00 in compensatory damages.
2. Respondent is liable for and shall pay to Claimants the sum of \$80,000.00 in attorneys' fees pursuant to Mass. Gen. Laws, ch. 110A, § 410(a)(2).
3. Any and all claims for relief not specifically addressed herein, including punitive damages, if any, 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	= \$ 1,575.00
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**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 that employed the associated person at the time of the events giving rise to the dispute. Accordingly, as a party, Respondent FMSBonds, Inc. is assessed the following:

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

Postponement Fees

Postponements granted during these proceedings for which fees were assessed or waived:

July 31- August 3, 2018, postponement by Respondent	= \$ 1,125.00
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Total Postponement Fees	= \$ 1,125.00
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The Panel has assessed the \$1,125.00 postponement fees to Claimants.

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

One (1) decision on a discovery-related motion on the papers
with three (3) arbitrators @ \$600.00 /decision = \$ 600.00

Total Discovery-Related Motion Fees = \$ 1,000.00

The Panel has assessed \$700.00 of the discovery-related motion fees to Claimants.
The Panel has assessed \$300.00 of the discovery-related motion fees 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 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: June 14, 2018 1 session

One (1) pre-hearing session with the Panel @ \$1,125.00/session = \$ 1,125.00
Pre-hearing conference: June 12, 2019 1 session

Fifteen (15) hearing sessions @ \$1,125.00/session = \$16,875.00
Hearing Dates: May 28, 2019 2 sessions
May 29, 2019 2 sessions
May 30, 2019 2 sessions
May 31, 2019 2 sessions
October 7, 2019 2 sessions
October 8, 2019 2 sessions
October 9, 2019 2 sessions
October 10, 2019 1 session

Total Hearing Session Fees = \$18,450.00

The Panel has assessed \$7,537.50 of the hearing session fees to Claimants.
The Panel has assessed \$10,912.50 of the hearing session fees to Respondent.

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

ARBITRATION PANEL

B. John Dill	-	Public Arbitrator, Presiding Chairperson
Ronald L. Cheney	-	Public Arbitrator
David B. Beizer	-	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

B. John Dill

B. John Dill
Public Arbitrator, Presiding Chairperson

01/07/2020

Signature Date

Ronald L. Cheney

Ronald L. Cheney
Public Arbitrator

01/07/2020

Signature Date

David B. Beizer

David B. Beizer
Public Arbitrator

01/10/2020

Signature Date

January 10, 2020

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