

**AWARD**  
**FINRA Dispute Resolution**

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In the Matter of the Arbitration Between:

Names of Claimants

Auto City Service, Inc., Auto City Clark, Inc.,  
and Fowlerville Exit Shell Service, Inc.

vs.

Case Number: 11-03013  
Hearing Site: Detroit, Michigan

Names of Respondents

J.P. Morgan Securities, Inc., J.P. Morgan  
Securities LLC, Nicole Moten, John Bueno,  
David Maksymetz, JPMorgan Chase Bank, N.A.,  
JPMorgan Chase & Co., XYZ Corporation,  
John Doe, and Mary Roe

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**NATURE OF THE DISPUTE**

Customers vs. Members, Non-Members, and Associated Persons

The case proceeded under the Optional All Public Panel rule/ All Public Panel.

**REPRESENTATION OF PARTIES**

Auto City Service, Inc., Auto City Clark, Inc., and Fowlerville Exit Shell Service, Inc. ("Claimants") were represented by Mark E. Maddox, Esq. and Thomas K. Caldwell, Esq., Maddox Hargett & Caruso, P.C., Fishers, Indiana.

J.P. Morgan Securities, Inc. n/k/a J.P. Morgan Securities LLC, ("J.P. Morgan") Nicole Moten ("Moten"), John Bueno ("Bueno"), and David Maksymetz ("Maksymetz"), hereinafter referred to as "Respondents," were represented by Frank Ortiz, Esq., Dickinson Wright PLLC, Detroit, Michigan.

JPMorgan Chase Bank, N.A. and JPMorgan Chase & Co. did not appear.

**CASE INFORMATION**

The Statement of Claim was filed on or about August 1, 2011. The Submission Agreement of Auto City Service, Inc. was signed on or about July 27, 2011, by David P. Doneth, President. The Submission Agreement of Auto City Clark, Inc. was signed on or about July

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27, 2011, by David P. Doneth, President. The Submission Agreement of Fowlerville Exit Shell Service, Inc. was signed on or about July 27, 2011, by a Corporate Officer.

The Statement of Answer was filed jointly by Respondents on or about October 6, 2011. The Submission Agreement of J.P. Morgan was signed on or about October 6, 2011, by Denise M. Higgins, Executive Director. The Submission Agreement of Moten was signed on or about October 5, 2011. The Submission Agreement of Bueno was signed on or about October 5, 2011. The Submission Agreement of Maksymetz was signed on or about October 5, 2011.

Respondents filed a Motion to Dismiss Pursuant to Rule 12504(a)(6)(B) on or about July 24, 2013. Claimants filed a Response and Objection to Respondents' Motion on or about September 5, 2013. Respondents filed a Reply in Support of Their Motion on or about September 10, 2013.

#### **CASE SUMMARY**

Claimants asserted the following causes of action: misrepresentations; negligent misrepresentation; violations of Michigan securities law; violations of federal securities law; negligence; breach of fiduciary duty; breach of contract; inappropriate investment conduct; failure to supervise; respondeat superior; and negligent supervision. The causes of action related to Claimants' allegations that Respondents failed to properly effectuate account transfers, erroneously computed account assets, and did not properly advise regarding Claimants' margin and default concerns after Claimants transferred their business (including various unspecified securities, a business loan, and an interest rate swap) to Respondents.

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

#### **RELIEF REQUESTED**

Claimants requested an award in the amount of:

Actual/Compensatory Damages	\$100,000.01 (in excess of)
Interest	Unspecified
Attorneys' Fees	Unspecified
Other Costs	Unspecified

At the close of the hearing, Claimants requested an award in the amount of:

Actual/Compensatory Damages	\$6,000,000.00
Interest	at 6%

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Attorneys' Fees	\$242,000.00
Other Costs	\$50,000.00
Other Monetary Relief	Unspecified

Respondents requested that the claims asserted against them be dismissed in their entirety and that they be awarded their costs, attorneys' fees, and other appropriate relief.

### **OTHER ISSUES CONSIDERED & DECIDED**

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

JPMorgan Chase Bank, N.A. and JPMorgan Chase & Co. are neither FINRA Member Firms nor persons associated with FINRA Member Firms. JPMorgan Chase Bank, N.A. and JPMorgan Chase & Co. did not voluntarily submit to FINRA arbitration, nor was a contract to arbitrate disputes with JPMorgan Chase Bank, N.A. or JPMorgan Chase & Co. presented. Therefore JPMorgan Chase Bank, N.A. and JPMorgan Chase & Co. are not compelled by the rules to arbitrate disputes in this forum. In the absence of the voluntary submissions of JPMorgan Chase Bank, N.A. and JPMorgan Chase & Co., FINRA does not have jurisdiction over these parties.

Claimants did not identify XYZ Corporation, John Doe, or Mary Roe by name. The Panel did not adjudicate any claims against these unnamed parties.

In its Order entered on or about September 25, 2013, the Panel denied Respondents' Motion to Dismiss without prejudice.

The Panel ordered that the court reporter's transcript would serve as the official record of the hearing.

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

- 1.) Respondents J.P. Morgan Securities, Inc. and J.P. Morgan Securities LLC are jointly and severally liable for and shall pay to Claimants, Auto City Service, Inc., Auto City Clark, Inc., and Fowlerville Exit Shell Service, Inc., the sum of \$1,680,000.00 in compensatory damages;

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- 2.) Respondents J.P. Morgan Securities, Inc. and J.P. Morgan Securities LLC are jointly and severally liable for and shall pay to Claimants, Auto City Service, Inc., Auto City Clark, Inc., and Fowlerville Exit Shell Service, Inc., interest on the above-stated sum at the rate of 5% per annum from and including October 9, 2008, through and including October 21, 2013;
- 3.) Respondents J.P. Morgan Securities, Inc. and J.P. Morgan Securities LLC are jointly and severally liable for and shall pay to Claimants, Auto City Service, Inc., Auto City Clark, Inc., and Fowlerville Exit Shell Service, Inc., the sum of \$50,000.00 in costs;
- 4.) Respondents J.P. Morgan Securities, Inc. and J.P. Morgan Securities LLC are jointly and severally liable for and shall pay to Claimants, Auto City Service, Inc., Auto City Clark, Inc., and Fowlerville Exit Shell Service, Inc., the sum of \$300.00 as reimbursement for the non-refundable portion of the FINRA filing fee;
- 5.) Respondents J.P. Morgan Securities, Inc. and J.P. Morgan Securities LLC are jointly and severally liable for and shall pay to Claimants, Auto City Service, Inc., Auto City Clark, Inc., and Fowlerville Exit Shell Service, Inc., the sum of \$242,000.00 in attorneys' fees pursuant to statute;
- 6.) Claimants' claims against Respondents Nicole Moten, John Bueno, and David Maksymetz are denied and dismissed with prejudice; and
- 7.) Any relief not specifically enumerated is hereby denied and dismissed with prejudice.

### 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 = \$ 1,425.00

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

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### **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 persons at the time of the events giving rise to the dispute. Accordingly, as a party, J.P. Morgan Securities LLC (as successor to J.P. Morgan Securities, Inc.) is assessed the following:

Member surcharge	= \$	1,700.00
Pre-hearing process fee	= \$	750.00
Hearing process fee	= \$	2,750.00

### **Hearing Session Fees and Assessments**

The Panel has assessed hearing session fees for each hearing 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 Panel x \$1,125.00	= \$	1,125.00
Pre-hearing conference: January 13, 2012	1 session	
Eleven (11) Hearing sessions x \$1,125.00	= \$	12,375.00
Hearing Dates:		
September 30, 2013	2 sessions	
October 1, 2013	2 sessions	
October 2, 2013	2 sessions	
October 3, 2013	2 sessions	
October 4, 2013	2 sessions	
October 21, 2013	1 session	
<b>Total Hearing Session Fees</b>	<b>= \$</b>	<b>13,500.00</b>

The Panel has assessed \$13,500.00 of the hearing session fees jointly and severally to J.P. Morgan Securities, Inc. and J.P. Morgan Securities LLC.

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

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**ARBITRATION PANEL**

Stuart Sinai - Public Arbitrator, Presiding Chair  
Stephen D. Kursman - Public Arbitrator  
Patrick R. Sughroue - 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/ Stuart Sinai  
Stuart Sinai  
Public Arbitrator, Presiding Chair

11/11/13  
Signature Date

/s/ Stephen D. Kursman  
Stephen D. Kursman  
Public Arbitrator

11/08/13  
Signature Date

/s/ Patrick R. Sughroue  
Patrick R. Sughroue  
Public Arbitrator

11/11/13  
Signature Date

11/11/13  
Date of Service (For FINRA office use only)

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Stephen D. Kursman  
Public Arbitrator

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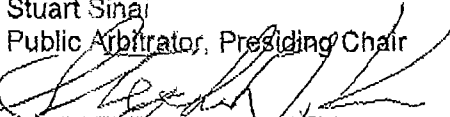
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11/8/13  
\_\_\_\_\_  
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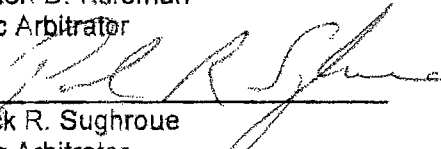
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