

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimants

José Luis Esparza, Egdalis Blanco De Esparza,
and Their Conjugal Partnership
JL Esparza, Inc.
Lizmarie Esparza

Case Number: 15-02646

vs.

Respondents

Oriental Financial Services, LLC
Oriental Bank

Hearing Site: San Juan, Puerto Rico

Awards are rendered by independent arbitrators who are chosen by the parties to issue final, binding decisions. FINRA makes available an arbitration forum—pursuant to rules approved by the SEC—but has no part in deciding the award.

Nature of the Dispute: Customers vs. Member and Non-Member

This case was decided by an all-public panel.

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

For Claimants José Luis Esparza, Egdalis Blanco De Esparza, and Their Conjugal Partnership, JL Esparza, Inc., and Lizmarie Esparza (“Claimants”): Luis E. Miñana, Esq., Luis Elvin Gonzalez, Esq., and Marla Cardona, Esq., Espada, Miñana, & Pedrosa Law Offices, PSC, San Juan, Puerto Rico, and W. Scott Greco, Esq., Greco & Greco, P.C., McLean, Virginia.

For Respondent Oriental Financial Services, LLC (“OFS”): Alfredo Fernández-Martínez, Esq., Pedro Hernández-Freire, Esq., and Carlos Baralt-Suárez, Esq., Delgado Fernández, LLC, San Juan, Puerto Rico.

Respondent Oriental Bank (“OB”) did not enter an appearance in this matter.

CASE INFORMATION

Statement of Claim filed on or about: September 30, 2015.

José Luis Esparza, Egdalis Blanco De Esparza, and Their Conjugal Partnership, signed the Submission Agreement: September 15, 2015.

JL Esparza, Inc. signed the Submission Agreement: September 15, 2015.

Lizmarie Esparza signed the Submission Agreement: September 15, 2015.

Statement of Answer filed by Respondent OFS on or about: January 26, 2016.
Respondent OFS signed the Submission Agreement: December 17, 2015.

Respondent OB did not file a Statement of Answer or sign the Submission Agreement.

CASE SUMMARY

In the Statement of Claim, Claimants asserted the following causes of action: Federal Securities Acts violations; fault, fraud, deceit, recklessness, and negligence; and rescission of contracts. The causes of action relate to Claimants' investments in Puerto Rico bonds and closed-end bond funds.

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

RELIEF REQUESTED

In the Statement of Claim, Claimants requested: no less than \$1,800,000.00 to Claimants José Luis Esparza, Egdalis Blanco De Esparza, and Their Conjugal Partnership, for their economic losses; no less than \$400,000.00 to Claimant JL Esparza, Inc. for their economic losses; no less than \$50,000.00 to Claimant Lizmarie Esparza for her economic losses; the monies paid by Claimants for the purchase of the voided Puerto Rico securities, transaction fees, commissions and other charges related to the purchase and sale of the Puerto Rico securities, in an unspecified amount to be determined at the hearing; attorneys' fees in the unspecified amount to be determined by the Panel, plus reimbursement of arbitration and litigation costs and expenses to be determined at the hearing; legal interest accrued over the aforesaid monetary amounts since the filing of this claim in an unspecified amount to be determined at the hearing; and any such other and further relief, as the arbitration Panel deems just and appropriate.

In the Statement of Answer, Respondent OFS requested that the Panel dismiss all claims filed by Claimants and order the expungement of the claim from the broker's record.

At the hearing, Claimants requested total compensatory damages in the amount of \$2,781,568.00.

OTHER ISSUES CONSIDERED AND DECIDED

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

Respondent OB is not a member or associated person of FINRA and did not voluntarily submit to arbitration. Therefore, the Panel made no determination with respect to the claims against Respondent OB.

The Panel did not rule on Respondent OFS's expungement request contained in the Statement of Answer, because the expungement request was not pursued by Respondent OFS after the filing of the Statement of Answer.

On May 26, 2021, Respondent OFS filed a Motion to Dismiss the Statement of Claim. On June 7, 2021, Claimants filed a response opposing the Motion to Dismiss. On June 21, 2021, the Panel denied the Motion.

After the close of Claimants' case-in-chief, Respondent OFS made an ore tenus Motion for Directed Verdict. The Panel denied the Motion.

The Award in this matter may be executed in counterpart copies.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, and any post-hearing submissions, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent OFS is liable for and shall pay to Claimants the sum of \$700,000.00 in compensatory damages.
2. Respondent OFS is liable for and shall pay to Claimants interest on the above-stated sum at the rate of 5% compounded annually from the date of filing this claim through and including the date the total balance has been paid.
3. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages, treble damages, and attorneys' fees, are denied.

FEES

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

Filing Fees

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

Initial Claim Filing Fee	=\$ 2,000.00
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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 event giving rise to the dispute. Accordingly, as a party, Respondent OFS is assessed the following:

Member Surcharge	=\$ 3,025.00
Member Process Fee	=\$ 6,175.00

Postponement Fees

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

April 27, 2021 – April 30, 2021, postponement requested by Respondent OFS	= \$	1,400.00
July 6, 2021 – July 8, 2021, postponement requested by Respondent OFS	= \$	1,400.00
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Total Postponement Fees	= \$	2,800.00

The Panel has assessed the total postponement fees to Respondent OFS.

Last-Minute Cancellation Fees

Fees apply when a hearing on the merits is cancelled within three business days before the start of a scheduled hearing session:

April 27, 2021 – April 30, 2021, cancellation requested by Respondent OFS	= \$	1,800.00
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Total Last-Minute Cancellation Fees	= \$	1,800.00

The Panel has assessed the total last-minute cancellation fees to Respondent OFS.

Discovery-Related Motion Fees

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
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Claimants submitted one (1) discovery-related motion
Respondent OFS submitted one (1) discovery-related motion

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Total Discovery-Related Motion Fees	= \$	400.00

The Panel has assessed the total discovery-related motion fees to Respondent OFS.

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, which lasts four (4) hours or less. Fees associated with these proceedings are:

Three (3) pre-hearing sessions with the Panel @ \$1,400.00/session	= \$	4,200.00
Pre-Hearing Conferences:		
March 21, 2016	1 session	
February 7, 2020	1 session	
August 6, 2020	1 session	

Nineteen (19) hearing sessions with the Panel @ \$1,400.00/session	= \$	26,600.00
Hearings:		
February 24, 2020	2 sessions	
February 25, 2020	3 sessions	
February 26, 2020	2 sessions	
February 27, 2020	2 sessions	
February 28, 2020	2 sessions	

February 29, 2020	1 session
April 26, 2021	1 session
June 28, 2021	2 sessions
June 29, 2021	2 sessions
June 30, 2021	2 sessions

Total Hearing Session Fees = \$ 30,800.00

The Panel has assessed the total hearing session fees to Respondent OFS.

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

ARBITRATION PANEL

Stuart Sinai	-	Public Arbitrator, Presiding Chairperson
David Edward Upton	-	Public Arbitrator
Richard Francis Kane	-	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

Stuart Sinai

Stuart Sinai
Public Arbitrator, Presiding Chairperson

08/04/2021

Signature Date

David Edward Upton

David Edward Upton
Public Arbitrator

08/04/2021

Signature Date

Richard Francis Kane

Richard Francis Kane
Public Arbitrator

08/04/2021

Signature Date

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August 04, 2021

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