

Award
FINRA Dispute Resolution

In the Matter of the Arbitration Between:

Claimants
Estate of Roberto Ledesma
Melanie Mackin Ledesma

Case Number: 14-02730

vs.

Respondent
Popular Securities, LLC

Hearing Site: San Juan, Puerto Rico

Nature of the Dispute: Customers vs. Member

This case was decided by a majority-public panel.

REPRESENTATION OF PARTIES

For Claimants Estate of Roberto Ledesma and Melanie Mackin Ledesma: Harold D. Vicente, Esq. and Harold Vicente-Colon, Esq., Vicente & Cuebas, San Juan, Puerto Rico and Francisco Pujol, Esq., Francisco Pujol Law Office, PSC, San Juan, Puerto Rico.

For Respondent Popular Securities, LLC: Alan M. Wolper, Esq., Ulmer & Berne LLP, Chicago, Illinois.

CASE INFORMATION

Statement of Claim filed on or about: September 3, 2014.

Roberto Ledesma signed the Submission Agreement: August 25, 2014.

Melanie Mackin Ledesma signed the Submission Agreement: August 25, 2014.

Statement of Answer filed by Respondent on or about: November 3, 2014.

Popular Securities, LLC signed the Submission Agreement: September 28, 2014.

CASE SUMMARY

Claimants asserted the following causes of action: (1) violations of Section 10(b) of the Securities Exchange Act of 1934, Rule 10b-5 of the Securities Exchange Act of 1934, NYSE and FINRA rules, and the securities laws and other laws and regulations of Puerto Rico; (2) securities fraud; (3) breach of laws, rules, norms and regulations about good faith and fair dealing; (4) breach of contract; and (5) breach of policies, law(s), rules, regulations and norms for the financial protection of elderly or handicapped persons.

The causes of action relate to, among other things, Claimants' investment in Puerto Rico closed-end mutual funds (the "Funds") concentrated in Puerto Rico bonds and the use of loan proceeds to purchase securities.

Unless specifically admitted in its 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: compensatory damages in the amount of \$285,012.39 plus legal interest thereon from the date of filing of the Statement of Claim through the date of full payment; disgorgement of commissions, interest and/or service for loan fees; rescission; urgent injunctive relief prohibiting Respondents from making collection efforts of alleged debit or loan balances other than through these arbitration proceedings and from destroying or disposing of any documents and/or evidence related to Claimants' account and the transactions described in the Statement of Claim, including electronic and digital records; punitive damages of not less than \$285,012.39; costs and expenses, including filing fees, consulting fees and arbitration fees; attorneys' fees; and any amounts needed to liquidate the debit balances, if any, in Claimants' accounts.

At the close of the hearing, Claimants requested: compensatory damages in the amount of \$209,989.32 representing out-of-pocket losses; costs in the amount of \$2,000.00; and expert witness fees in the amount of \$30,000.00.

In its Statement of Answer, Respondent requested rejection of Claimants' Statement of Claim in its entirety as well as reasonable costs and attorneys' fees.

At the close of the hearing, Respondent requested: fees in the amount of \$75,000.00; costs in the amount of \$10,000.00; and expert witness fees in the amount of \$45,000.00.

OTHER ISSUES CONSIDERED AND DECIDED

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

Prior to the evidentiary hearing, Roberto Ledesma passed away. At the evidentiary hearing, Claimant Melanie Mackin Ledesma orally requested that the Estate of Roberto Ledesma be substituted in Roberto Ledesma's place as co-Claimant in this matter. The Panel granted Claimants' request.

At the conclusion of Claimants' case-in-chief, Respondent moved for dismissal, asserting that all acts or events that occurred before September 3, 2008, were barred by Rule 12206 of the Code of Arbitration Procedure (the "Code"). Respondents further asserted that, pursuant to both the Puerto Rico Securities Act and U.S. federal law, claims arising from acts or events that occurred before September 3, 2012, were barred by the applicable statutes of limitation. Based upon the evidence and arguments of counsel and the applicable law, and as a tribunal based in law and in equity, the Panel

granted in part, and denied in part, Respondent's Motion to Dismiss, as set forth in the Award section below.

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, 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. Based on FINRA Rule 12206 of the Code, which requires the acts or events to have occurred within six years of the filing of the Statement of Claim, the Panel grants Respondent's Motion to Dismiss for claims arising out of any acts or events which occurred before September 3, 2008, six years prior to the date the claim was received by FINRA. Respondent's Motion to Dismiss pursuant to Rule 12206 is granted by the Panel without prejudice to any right Claimants have to file these dismissed claims in court; Claimant is not prohibited from pursuing these dismissed claims in a court pursuant to Rule 12206(b) of the Code.

Further, based upon the applicable statutes of limitations under Puerto Rican law and U.S. federal law, the Panel grants Respondent's Motion to Dismiss for claims arising out of acts or events occurring before November 17, 2011. Accordingly, these claims are dismissed with prejudice.

The Panel found that the advice given on November 17, 2011, and the purchases of additional PR Pension Obligation bonds on margin on November 18, 2011, were unsuitable, given Claimants' stated investment objectives and risk tolerance. Additionally, the evidence and testimony elicited from the witnesses was sufficient to toll the applicable statute of limitations under Puerto Rican law and U.S. federal law. Therefore, with respect to claims arising out of the acts or events occurring from November 17, 2011, through the date the account was closed by Claimants, the Panel denies Respondent's Motion to Dismiss.

With respect to the breach of contract claims, the Panel denies Respondent's Motion to Dismiss in its entirety as Puerto Rican law has a 15-year statute of limitations which would be applicable to the entire time period the Claimants' account was handled by Respondent.

2. Respondent is liable and shall pay to Claimants compensatory damages in the amount of \$209,989.32, plus interest at the rate of 4.25% per annum accruing from November 18, 2011, through the date of service of this Award. Post-Award interest, if any, shall accrue in accordance with Rule 12904 of the Code.
3. Respondent is liable and shall reimburse Claimants for their expert witness fees in the amount of \$30,000.00.

4. Respondent is liable and shall reimburse Claimants for their costs in the amount of \$2,000.00.
5. Pursuant to the Puerto Rico Uniform Securities Act, Respondent is liable and shall reimburse Claimants for their attorneys' fees in the amount of \$69,926.44, representing 33% of the compensatory damages awarded.
6. Respondent is liable and shall reimburse Claimants the sum of \$375.00, representing the non-refundable portion of the claim filing fee previously paid by Claimants to FINRA Office of Dispute Resolution.
7. Any explanation contained in this Award is for the information of the parties only and is not precedential in nature.
8. Any and all relief not specifically addressed herein, including Claimants' request for punitive damages and Respondent's request for attorneys' fees, is denied.

FEES

Pursuant to the Code, 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

**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	=\$ 2,250.00
Pre-Hearing Processing Fee	=\$ 750.00
Hearing Processing Fee	=\$ 4,000.00

Discovery-Related Motion Fees

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

One (1) Decision on a discovery-related motion on the papers
with one (1) arbitrator @ \$200.00 =\$ 200.00

Respondent submitted one (1) discovery-related motion

The Panel has assessed the total \$200.00 discovery-related motion fee to Respondent.

Hearing Session Fees and Assessments

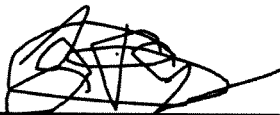
The Panel has assessed hearing session fees for each session conducted. A session is any meeting between the parties and the arbitrator(s), including a pre-hearing

ARBITRATION PANEL

Brian James Tagtmeier	-	Public Arbitrator, Presiding Chairperson
Cindy L. Anderson	-	Public Arbitrator
Javier Miguel Uribe	-	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



Brian James Tagtmeier
Public Arbitrator, Presiding Chairperson

July 14, 2016
Signature Date

Cindy L. Anderson
Public Arbitrator

Signature Date

Javier Miguel Uribe
Non-Public Arbitrator

Signature Date

7/19/16

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

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Public Arbitrator



Signature Date

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Public Arbitrator, Presiding Chairperson

Signature Date

Cindy L. Anderson
Public Arbitrator

Signature Date



Javier Miguel Uribe
Non-Public Arbitrator

7/15/2016
Signature Date

7/19/16
Date of Service (For FINRA's Office of Dispute Resolution use only)