

**Award
FINRA Dispute Resolution**

In the Matter of the Arbitration Between:

Claimant

Case Number: 09-02059

William Quiros

Respondents

Hearing Site: Los Angeles, California

**Merrill Lynch, Pierce, Fenner & Smith Incorporated
Steven Jay Port
Kevin James Caputo**

Nature of the Dispute: Customer vs. Member and Associated Persons

REPRESENTATION OF PARTIES

**Claimant, William Quiros, hereinafter referred to as "Claimant": David Gurnick, Esq.,
Lewitt Hackman Shapiro Marshall & Harlan, Encino, California.**

**Respondents, Merrill Lynch, Pierce, Fenner & Smith, Incorporated, ("Merrill Lynch"), and
Kevin James Caputo ("Caputo"): Susan L. Hoffman, Esq., Bingham McCutchen LLP,
Los Angeles, California.**

**Respondent Steven Jay Port ("Port"): Christine A. Page, Esq., Law Offices of Gilchrist
& Rutter P.C., Santa Monica, California.**

CASE INFORMATION

Statement of Claim filed: April 8, 2009.

Claimant signed the Submission Agreement: April 7, 2009.

**Statement of Answer filed by Respondents Merrill Lynch, Caputo and Port on or about:
July 27, 2009.**

Respondent Merrill Lynch signed the Submission Agreement: May 21, 2009.

Respondent Port signed the Submission Agreement: July 22, 2009.

Respondent Caputo signed the Submission Agreement: July 24, 2009.

FINRA Dispute Resolution
Arbitration No. 09-02059
Award Page 2 of 5

CASE SUMMARY

Claimant asserted the following causes of action: 1) fraud; 2) breach of fiduciary duty; 3) rescission and damages for fraud and for violation of federal and state corporate securities laws; 4) negligence; 5) negligent misrepresentation; 6) failure to adequately supervise; and 7) unfair business practices. The causes of action relate to a security consisting of a Convertible Promissory Note from Medical Media Television, Inc. ("MMTV").

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

RELIEF REQUESTED

In the Statement of Claim, Claimant requested an Award:

1. For damages in an amount to be proved at trial;
2. Alternatively and not as an election of remedies, for rescission and restitution;
3. For punitive damages;
4. For interest at the maximum rate allowed by law;
5. For an injunction against unfair business practices;
6. For disgorgement of unjust enrichment;
7. For costs of suit herein incurred;
8. For reasonable attorneys' fees according to proof, if any agreement provides for recovery of attorneys' fees; and
9. For such other and further relief as the Panel may deem just and proper.

In Claimant's Closing Brief, Claimant requested \$1,445,650.30. At the close of the hearing, Claimant changed his damage request to \$2,123,914.55.

In the Statement of Answer, Respondents requested that the Panel issue an Award dismissing the Statement of Claim in its entirety and grant Respondents such other, further and different relief as the Panel may deem appropriate.

OTHER ISSUES CONSIDERED AND DECIDED

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

At the hearing, Respondent Caputo requested expungement. The parties submitted evidence regarding Respondent Caputo's conduct and Respondent Caputo testified.

On or about July 20, 2010, Claimant requested a postponement of the July 27, 2010 hearing date. The Panel denied Claimant's request to postpone the July 27, 2010 hearing date.

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.

FINRA Dispute Resolution
 Arbitration No. 09-02059
Award Page 3 of 5

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. Respondents Merrill Lynch, Pierce, Fenner & Smith Incorporated, Kevin James Caputo, and Steven Jay Port are jointly and severally liable for and shall pay to Claimant William Quiros compensatory damages in the amount of \$500,000.00.
2. Respondent Kevin James Caputo's request for expungement is denied.
3. Any and all relief not specifically addressed herein, including punitive damages, is denied.

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 | = \$1,250.00 |
|--------------------------|--------------|

**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 that employed the associated person at the time of the events giving rise to the dispute. Accordingly, as a party, Merrill Lynch, Pierce, Fenner & Smith Incorporated is assessed the following:

| | |
|-------------------------|--------------|
| Member surcharge | = \$1,500.00 |
| Pre-hearing process fee | = \$ 750.00 |
| Hearing process fee | = \$2,200.00 |

Contested Motion for Issuance of Subpoena Fees

Fees apply for each decision on a contested motion for the issuance of a subpoena.

| | |
|---|------------|
| One (1) Decision on a contested motion for the issuance of a subpoena | |
| Three (3) arbitrators @ \$600.00 | = \$600.00 |

| | |
|--|------------|
| Total Contested Motion for Issuance of Subpoena Fees | = \$600.00 |
|--|------------|

The Panel has assessed \$600.00 of the contested motion for issuance of subpoena fees to Claimant.

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

FINRA Dispute Resolution
 Arbitration No. 09-02059
Award Page 4 of 5

with the arbitrator(s) that lasts four (4) hours or less. Fees associated with these proceedings are:

| | | |
|--|------------|----------------------|
| Two (2) Pre-hearing sessions with Panel @ \$1,000.00/session | | = \$ 2,000.00 |
| Pre-hearing conferences: January 12, 2010 | 1 session | |
| June 8, 2010 | 1 session | |
| Sixteen (16) Hearing sessions @ \$1,000.00/session | | =\$16,000.00 |
| Hearing Dates: July 6, 2010 | 1 session | |
| July 7, 2010 | 2 sessions | |
| July 8, 2010 | 2 sessions | |
| July 9, 2010 | 2 sessions | |
| July 27, 2010 | 2 sessions | |
| August 19, 2010 | 2 sessions | |
| August 20, 2010 | 2 sessions | |
| August 21, 2010 | 3 sessions | |
| Total Hearing Session Fees | | = \$18,000.00 |

1. The Panel has assessed \$9,000.00 of the hearing session fees to Claimant.
2. The Panel has assessed \$9,000.00 of the hearing session fees jointly and severally to Respondents.


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

FINRA Dispute Resolution
Arbitration No. 09-02059
Award Page 5 of 6

ARBITRATION PANEL

| | | |
|--------------------------|---|--|
| David W. Casey | - | Public Arbitrator, Presiding Chairperson |
| Barbara Faye Vosen, Ph.D | - | Public Arbitrator |
| Walter R. Whitman | - | Non-Public Arbitrator |

Concurring Arbitrators' Signatures


 David W. Casey
 Public Arbitrator, Presiding Chairperson

11/17/10
 Signature Date

 Barbara Faye Vosen, Ph.D
 Public Arbitrator

 Signature Date

 Walter R. Whitman
 Non-Public Arbitrator

 Signature Date

November 18, 2010
 Date of Service (For FINRA Dispute Resolution use only)

FINRA Dispute Resolution
Arbitration No. 09-02059
Award Page 5 of 5


ARBITRATION PANEL

| | | |
|--------------------------|---|--|
| David W. Casey | - | Public Arbitrator, Presiding Chairperson |
| Barbara Faye Vosen, Ph.D | - | Public Arbitrator |
| Walter R. Whitman | - | Non-Public Arbitrator |

Concurring Arbitrators' Signatures

David W. Casey
Public Arbitrator, Presiding Chairperson

Signature Date



Barbara Faye Vosen, Ph.D
Public Arbitrator



Signature Date

Walter R. Whitman
Non-Public Arbitrator

Signature Date

November 18, 2010
Date of Service (For FINRA Dispute Resolution use only)

FINRA Dispute Resolution
Arbitration No. 09-12069
Award Page 5 of 6

ARBITRATION PANEL

| | | |
|--------------------------|---|--|
| David W. Casey | - | Public Arbitrator, Presiding Chairperson |
| Barbara Faye Vosen, Ph.D | - | Public Arbitrator |
| Walter R. Whitman | - | Non-Public Arbitrator |

Concurring Arbitrators' Signatures

David W. Casey
Public Arbitrator, Presiding Chairperson

Signature Date

Barbara Faye Vosen, Ph.D
Public Arbitrator

Signature Date

Walter R. Whitman

Walter R. Whitman
Non-Public Arbitrator

Oct 17, 2010

Signature Date

November 18, 2010
Date of Service (For FINRA Dispute Resolution use only)