

Award
FINRA Dispute Resolution

In the Matter of the Arbitration Between:

Claimants
James Zeigon
Annie Zeigon

Case Number: 10-04192

vs.

Respondent
First Republic Securities Company, LLC

Hearing Site: San Francisco, California

Nature of the Dispute: Customers vs. Member

REPRESENTATION OF PARTIES

For Claimants James Zeigon, and Annie Zeigon, hereinafter collectively referred to as "Claimants": Cary S. Lapidus, Esq., Law Offices of Cary S. Lapidus, San Francisco, California.

For Respondent First Republic Securities Company, LLC, hereinafter referred to as "Respondent": Sara B. Brody, Esq. and Nathaniel R. Spencer, Esq., Sidley Austin LLP, San Francisco, California.

CASE INFORMATION

Statement of Claim filed on or about: September 15, 2010.

Claimant Annie Zeigon signed the Submission Agreement: September 7, 2010.

Claimant James Zeigon signed the Submission Agreement: September 7, 2010.

Statement of Answer filed by Respondent on or about: November 15, 2010.

Respondent signed the Submission Agreement: January 20, 2011.

CASE SUMMARY

Claimants asserted the following causes of action: breach of fiduciary duty; professional negligence; negligent misrepresentation; breach of contract; common law fraud and deceit; violation of California Corporations Code Sections 25235, 25238 and 25401; and violation of California Code of Regulations Sections 260.235 and 260.238. The causes of action relate to Claimants' investments in Trainer Wortham First Republic CBO, III, LTD. ("TW-FR CBO III"), Trainer Wortham First Republic CBO, IV, LTD. ("TW-FR CBO

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IV") and Trainer Wortham First Republic CBO, V, LTD. ("TW-FR CBO V"), hereinafter collectively referred to as "CBOs" and TW Tax Advantaged Fund, L.P. ("the Fund").

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:

1. An award in their favor in an amount of \$2,125,000.00;
2. Alternatively, rescission of the investments in CBOs and the Fund along with prejudgment interest to make them whole;
3. Prejudgment interest;
4. Lost opportunity damages;
5. Attorneys' fees;
6. Costs of the arbitration;
7. Punitive damages; and
8. Such other relief as the Panel deems appropriate.

In the Statement of Answer, Respondent requested:

1. An award in its favor;
2. Costs; and
3. An order expunging the claim from the CRD record of Alison G. Schweitzer.

At the close of the hearing, Claimant requested compensatory damages in the amount of \$2,113,297.00.

OTHER ISSUES CONSIDERED AND DECIDED

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

On February 9, 2011, Respondent filed a Motion to Dismiss the claims asserted by Claimants relating to Mr. Zeigon's investments in two structured products: TW-FR CBO III and TW-FR CBO IV pursuant to Rule 12206 of the Code of Arbitration Procedure (the "Code"). On March 9, 2011, Claimants submitted a response opposing Respondent's Motion to Dismiss. On April 13, 2011, Respondent filed a reply to Claimants' response opposing their Motion to Dismiss. On May 16, 2011, the Panel conducted a recorded pre-hearing session on the Motion to Dismiss. After due deliberation, the Panel determined to defer ruling on Respondent's Motion to Dismiss pending the hearing of all of the evidence at the evidentiary hearing on the merits.

The Panel has determined to grant Respondent's Motion to Dismiss as to Claimants' investments in TW-FR CBO III and TW-FR CBO IV, and further determined that as to the TW-FR CBO III and TW-FR CBO IV investments, the six-year eligibility period, provided for in Rule 12206 of the Code, started to run on or about the dates of acquisition of these investments. Thus, the September 2010 filing of the Statement of Claim was untimely as to the TW-FR CBO III and TW-FR CBO IV investments.

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At the recorded evidentiary hearing, Respondent made an oral motion to dismiss Claimants' claim that Respondent failed to perform an adequate "reasonable basis" suitability determination before it sold the CBOs and the Fund to the Claimants. The Panel deferred the decision until after the completion of the evidentiary presentations by both parties. After due deliberation, the Panel has determined to deny said motion to dismiss.

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

1. Respondent is liable to and shall pay Claimant James Zeigon the sum of \$870,631.50.
2. Claimant James Zeigon shall tender to Respondent his TW-FR CBO V ownership document(s) within 30 days following receipt of payment of the aforementioned award amount of \$870,631.50 from Respondent.
3. No supporting evidence was presented regarding Annie Zeigon's entitlement as a Claimant. All claims by Claimant Annie Zeigon are denied.
4. Each party shall bear its own costs.
5. 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	=\$ 1,800.00
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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(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, as a party, First Republic Securities Company, LLC is assessed the following:

Member Surcharge	=\$ 2,800.00
Pre-Hearing Processing Fee	=\$ 750.00

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Hearing Processing Fee = \$ 5,000.00

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

Two (2) Pre-hearing sessions with a single arbitrator @ \$450.00/session = \$900.00
 Pre-hearing conferences: September 26, 2011 1 session
 October 4, 2011 1 session

Three (3) Pre-hearing sessions with the Panel @ \$1,200.00/session = \$3,600.00
 Pre-hearing conferences: April 18, 2011 1 session
 May 16, 2011 1 session
 December 7, 2011 1 session

Sixteen (16) Hearing sessions @ \$1,200.00/session = \$19,200.00
 Hearing Dates: November 28, 2011 2 sessions
 November 29, 2011 2 sessions
 November 30, 2011 2 sessions
 December 1, 2011 2 sessions
 December 2, 2011 2 sessions
 December 3, 2011 2 sessions
 January 17, 2012 1 session
 January 23, 2012 2 sessions
 February 17, 2012 1 session

Total Hearing Session Fees = \$23,700.00

The Panel has assessed \$11,850.00 of the hearing session fees jointly and severally to Claimants.

The Panel has assessed \$11,850.00 of the hearing session fees to Respondent.

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

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ARBITRATION PANEL

Norman S. Nayfach	-	Public Arbitrator, Presiding Chairperson
Jeffrey M. Allen	-	Public Arbitrator
Edward J. Harkins	-	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

Norman S. Nayfach

Norman S. Nayfach
Public Arbitrator, Presiding Chairperson

3/27/2012

Signature Date

Jeffrey M. Allen
Public Arbitrator

Signature Date

Edward J. Harkins
Non-Public Arbitrator

Signature Date

March 29, 2012

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

ARBITRATION PANEL

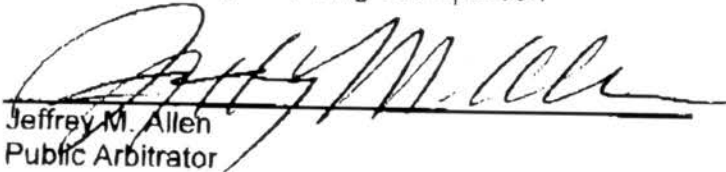
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Jeffrey M. Allen	-	Public Arbitrator
Edward J. Harkins	-	Non-Public Arbitrator

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Norman S. Nayfach
Public Arbitrator, Presiding Chairperson

Signature Date



Jeffrey M. Allen
Public Arbitrator

3/27/12

Signature Date

Edward J. Harkins
Non-Public Arbitrator

Signature Date

March 29, 2012

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