

This is a sample report entry for Awards in which the Panel recommended expungement to one or more brokers, accompanied by an affirmative finding that the broker or brokers were not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation or conversion of funds. The full report contains 206 records, sorted primarily by allegations and secondarily by state in alphabetical order.



# AWARD DATABASE REPORT

Prepared For: J. Doe

Parameters: "Not Involved"

Expungements On Merits

7/9/13 Sorted by Allegations & State

Number of Records: **306**

FC	Short Caption	Total Amt. Clmd.	Total Amt. Awarded	Alleg I	Alleg II	Alleg III	
N	Hurlbert v. Advest Incorporated	35.4	0	BestExecution			
Docket No	07-00052	State	PA	Issued	11/14/2007	TypeDisp	CustomerMember
Product	Bonds	Filed	1/8/2007	Days Open	310		
CC Amt Clmd	CC Award	CC Alleg	Expungement(CRD)				
-1	-1						
Award Brkdn							310

On 3/2/07, FINRA denied Cs' Motion to Change Venue. On 6/26/07, the Panel denied Rs' Motion To Dismiss (unspecified). On 10/23/07, the Panel denied the Rs' Request for an Order to Cs for Authorization from all Indispensable Parties, or Alternatively, a Request the Panel Issue an Order to Make James Gordon Hurlbert an Involuntary Cs Representative. On 10/23/07, the Panel denied the parties' Motion for Monetary Sanctions. The Panel has granted Cs' Request for Written Opinion and has made specific findings as part of this decision. All of the Cs' claims are dismissed and denied with prejudice based upon statutes of limitation grounds (S/L). Cs' requests for punitive damages, attorney fees, and interest (reflected in the "C Other" field) are denied with prejudice. The Panel recommended the expungement of all references to the above captioned arbitration from Rs Richard D. Sarachman's registration records maintained by the FINRA CRD, after a hearing on the merits, with the understanding that pursuant to FINRA's Notice to Members, said Rs must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

### Peculiar Cases

Arbitrator Remarks -- The Panel recommended U-4 expungement after a hearing on the merits. The Arbitrators have amplified the standard language used in awarding expungement in this Award.

### Professional

Cs: David R. Volpe, Attorney-at-Law, Alpharetta, GA.

Rs: (Alnc & RDS) Harry D. Frisch, Merrill Lynch Pierce Fenner & Smith Inc., New York, NY. ISC.

### Comments

Broker: Richard D. Sarachman. Cs alleged that Cs' Advest account was incorrectly charged for the purchase of Pennsylvania Housing Bonds on 1/20/94 and again on 2/15/94 in the amounts of \$40,000 and \$50,000, respectively. Cs alleged that the bonds should have been priced and sold on an Original Issue Discount basis in the secondary market, allowing for market fluctuations, and not a par. Rs denied the allegations and asserted the following affirmative defenses: the Statement of Claim failed to state a claim upon which relief can be granted; the claims are barred by the applicable statutes of limitations (S/L) and/or the equitable doctrine of laches; with full knowledge of the facts of the transaction, Cs approved, authorized, accepted, confirmed, participated, and ratified each and every transaction complained of; Cs have waived any and all claims against Rs; any damages sustained by Cs were proximately caused by Cs' own investment decisions and market conditions outside the Rs' control; Cs' damages, if any, were caused, in whole or in part, by the negligence and lack of due care of Cs and without any negligence on the part of the Rs; Cs failed to mitigate damages; the transactions complained of were conducted in accordance with all applicable securities laws and exchange rules and regulations; and at all relevant times, Advest properly supervised the servicing of Cs' accounts. On 3/2/07, FINRA denied Cs' Motion to Change Venue. On 6/26/07, the Panel denied Rs' Motion To Dismiss (unspecified). On 10/23/07, the Panel denied the Rs' Request for an Order to Cs for Authorization from all Indispensable Parties, or Alternatively, a Request the Panel Issue an Order to Make James Gordon Hurlbert an Involuntary Cs Representative. On 10/23/07, the Panel denied the parties' Motion for Monetary Sanctions. The Panel has granted Cs' Request for Written Opinion and has made specific findings as part of this decision. Arbitrator Remarks -- The Panel dismissed Cs' claim on the merits for lack of evidence, and because of the passage of time beyond all statutes of limitations (S/L), the claims beginning with the first purchase on 1/20/94 and the second purchase of 2/15/94. The Panel recommended the expungement of all references to the above captioned arbitration from Rs Richard D. Sarachman's registration records maintained by the FINRA CRD, after a hearing on the merits, with the understanding that pursuant to FINRA's Notice to Members, said Rs must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive. Unless specifically waived in writing by FINRA, parties seeking judicial confirmation of an arbitration award containing expungement relief must name FINRA as an additional party and serve FINRA with all appropriate documents. Pursuant to FINRA Rule 2130, the Panel has made the following affirmative finding of fact: The registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds. Best Execution dispute. Specific Performance. Defamation. Customer/Member U-4 Expungement and S/L Pkgs.

Total Clmd	35.4	Total Awrd	0	A Punis	0	A Atty	0	CC Award	-1	Costs Assessed	3
Clmd Comp	35.4	Comp Awrd	0	A RICO		A Other	0	TP Award			

This is a sample report entry for Awards with compensatory damages awarded of \$1,000,000 or more. The full report contains 64 records, sorted by the amount of compensatory damages awarded in descending order.



# AWARD DATABASE REPORT

Prepared For: J. Doe

Parameters: Compensation Awards Over \$1 Million

7/9/13 Sorted by Compensatory Damages Awarded

Number of Records: **64**

FC	Short Caption	Total Amt. Clmd.	Total Amt Awarded	Alleg I	Alleg II	Alleg III	Filed
N	Minchello v. Citigroup Global	234141.6	15800.0	Compensatn	Misappropriatn	BreachContract	5/14/2009
Docket No	09-02800	State	MA	Issued	1/20/2012	TypeDisp	EmployeeMember
CC Amt Clmd	CC Award	CC Alleg					Days Open
0	0	Sanctions; AttorneyFees; Expenses					981
Award Brkdn							

The Panel granted Cs' Motion for Leave to File a First, Second and Third Amended Statement of Claim. The Panel denied Cs' Motion to Compel Rs to Answer Statement of Claim and Cs' Motion to Bifurcate the hearing into separate hearings on liability and damages. The Panel denied Rs Motion to Strike, Motion for Summary Judgment and Motion for Protective Order. The Panel granted Rs Motion for an adjusted discovery schedule. The Panel granted in part Cs and Rs respective Motions to Compel the Production of Documents. The Panel denied Rs' Motion for Directed Verdict. Rs Citigroup Global Markets Inc. and Citigroup Inc. are jointly and severally liable to Cs for \$15,800,000 in compensatory damages, plus interest (reflected in the "A Other" field) at the rate of 6% per annum for the period of 12/15/04 to 1/13/12. With respect to Cs' Motion for Sanctions, Rs Citigroup Global Markets Inc. and Citigroup Inc. are jointly and severally liable to Cs for \$1,000,000 as a monetary sanction for their failure to produce requested discovery. Cs' requests for punitive damages, treble damages, attorney fees and costs are denied. Rs Counterclaim requests for attorney fees and costs and requests for monetary sanctions are denied.

#### Peculiar Cases

Big \$. Sanctions imposed. Severance.

#### Professional

Cs: (JBM, RVM & MJS) Peter R. Pendergast, Prince Lobel et al., Boston, MA.

Rs: (CGMInc & Clnc) Michele A. Coffey, Morgan Lewis & Bockius, New York, NY. OSC. and Prashanth Jayachandran, Morgan Lewis & Bockius, Princeton, NJ. OSC.

#### Comments

Add'l Cs: Martha Jane Sullivan. Brokers: James Bryan Minchello; Robert Vincent Minchello; Martha Jane Sullivan. Cs asserted the following causes of action as amended: breach of contract; breach of the implied covenant of good faith and fair dealing; unjust enrichment; promissory estoppel; violation of G. L.c 149 Sections 148, 150; quantum merit, implied contract and quasi contract; equitable estoppel; tortious interference with a contractual relationship; tortious interference with an economically advantageous relationship; conversion; restitution; equitable lien; and constructive trust/unconscionable injury. Rs Citigroup Global Markets Inc. and Citigroup Inc. denied the allegations and asserted various affirmative defenses. On 2/4/10, Cs filed a Motion to Amend their First Amended Statement of Claim, which the Panel granted on 3/11/10, the Panel granted Cs' Motion. On 5/4/10, Cs filed a Motion to Compel Rs to Answer Statement of Claim, which the Panel denied on 6/11/10. On 5/10/10, Rs requested to file a Motion to Strike or for Summary Judgment, which the Panel denied on 6/11/10. On 7/30/10, Rs filed a Motion for a Protective Order, which the Panel denied on 8/30/10. On 8/25/10, Cs filed a Motion to Bifurcate Hearing into Separate Hearings on Liability and Damages, which the Panel denied on 9/23/10. On 9/9/10, Rs filed a Motion for an adjusted discovery schedule, which the Panel granted on 9/23/10. On 10/8/10, Cs filed a Motion for Clarification, Modification of Order and to Compel Production of Documents, which the Panel partially granted on 11/8/10. On 11/1/10, Cs filed a Motion for Sanctions, which the Panel determined to address Cs Motion for Sanctions at the hearing. On 1/27/11, Cs filed a Motion to Amend Cs Second Amended Statement of Claim, which the Panel granted on 2/14/11. At the conclusion of Cs case-in-chief, on 6/30/11, Rs filed a Motion to Dismiss, which the Panel denied on 8/26/11. SD&E (Sanctions, Discovery, Evidentiary & Attorney Fees & Costs) and Substantive Mtns (Directed Verdicts Denied) Pkgs.

Total Clmd	234141.6	Total Awrd	15800.0	A Punis	0	A Atty	0	CC Award	0	Costs Assessed	2
Clmd Comp	78047.2	Comp Awrd	15800.0	A RICO	0	A Other	-1	TP Award			

This is a sample report entry for Awards in arbitrations involving exchange-traded funds. The full report contains 56 records, sorted by total amount awarded in descending order.



# AWARD DATABASE REPORT

Prepared For: J. Doe

Parameters: Exchange-Traded Fund Awards

7/9/13 Sorted by Total Amount Awarded

Number of Records: **56**

FC	Short Caption	Total Amt. Clmd.	Total Amt Awarded	Alleg I	Alleg II	Alleg III	Filed
N	Moshar v. Wells Fargo	1904.3	1333.3	Misreprestrn	BreachFiducDty	Supervision	2/8/2011
Docket No	11-00556	State	CA	Issued	1/9/2013	TypeDisp	CustomerMember
Product	ETFs	CC Amt Clmd	CC Award	CC Alleg	Expungement(CRD)	Days Open	701
-1	0						
Award Brkdn							

The Panel denied Rs Motion in Limine and Motion for Directed Verdict. Rs Wells Fargo Advisors LLC is liable to Cs for \$1,333,333 in compensatory damages. Cs' requests for punitive damages, interest (reflected in the "C Other" field) attorney fees and costs are denied. Rs Counterclaim request for expungement of Non-Party Sylvia Szabo-Larson's CRD record is denied.

### Peculiar Cases

Big \$. Majority Public Panel Rule.

### Professional

Cs: Marc I. Zussman, Law Offices of M.I. Zussman, Los Angeles, CA.

Rs: (WFALLC) Elizabeth H. Lindh, Keesal Young & Logan, Long Beach, CA. OSC.

### Comments

Unnamed Broker: Sylvia Szabo-Larson. Cs asserted the following causes of action: breach of fiduciary duty; breach of written contract; fraud by misrepresentation and omission; failure to supervise and control; and violation of federal and state securities laws and statutory and common law as well as NASD Rules of fair practice and NYSE rules. The causes of action relate to multiple investments in Exchange Traded Funds. Rs Wells Fargo Advisors LLC denied the allegations and asserted various affirmative defenses. During the evidentiary hearing, Rs filed a Motion in Limine. Cs opposed the Motion. The Panel denied the Motion. Also during the evidentiary hearing, Cs moved for sanctions. Rs opposed the request for sanctions. The Panel denied the Motion. At the conclusion of Cs case-in-chief, Rs moved for Non-Suit. Cs opposed the Motion. The Panel denied the Motion. During closing argument, Rs requested expungement of unnamed party Sylvia Szabo-Larson's CRD record. On 12/27/12, the Panel held a recorded telephonic hearing to hear the request for expungement. Blue Sky case. Majority Public Panel Rule. SD&E (Evidentiary) and Substantive Mtns (Directed Verdicts Denied) Pkgs.

Total Clmd	1904.3	Total Awrd	1333.3	A Punis	0	A Atty	0	CC Award	0	Costs Assessed	1
Clmd Comp	1904.3	Comp Awrd	1333.3	A RICO		A Other	0	TP Award			

This is a sample report entry for Awards issued since January 1, 2008 in arbitrations heard in Florida situses and including awards of punitive damages. The full report contains 60 records sorted by the amount of punitive damages awarded.



# AWARD DATABASE REPORT

Prepared For: J. Doe

Parameters: Florida Punitive Damage Awards  
Since 1/1/08

7/9/13 Sorted by Punitive Damages Awarded

Number of Records: **60**

FC	Short Caption	Total Amt. Clmd.	Total Amt Awarded	Alleg I	Alleg II	Alleg III	Filed
N	Ramazio v. Merrill Lynch	16909.7	10150.0	Compensatn	BreachContract	Fraud	10/1/2010
Docket No	10-04432	State	FL	Issued	4/3/2012	TypeDisp	EmployeeMember
CC Amt Clmd	CC Award	CC Alleg	AttorneyFees	Product	NP		Days Open
0	0						550
Award Brkdn							550

The Panel granted Cs emergency Motion for Sanctions and Independent Review of Discovery, ordering a fine of \$1,000 per day and an adverse inference if Rs did not produce specified documents by 1/12/12, but deferred final disposition on the sanctions portion of the Motion in order to evaluate Rs' production. The Panel awarded Cs \$3,500 as a monetary sanction for Rs to comply with the Panel's Order to produce documents contained in a Non-Party's e-mailbox and providing a privilege log to the Panel and Cs. The Panel ordered Rs not to file or threaten motions for sanctions or requests for relief from FINRA due to appropriate disclosure of relevant documents in this matter and related in any way to events occurring in this case. As a sanction for attempting to introduce medical records into evidence, the Panel precluded Rs from conducting any further cross-examination of Cs Smolchek (but later permitted the cross-examination to continue with certain limitations) and awarded Cs Smolchek \$10,000 as a monetary sanction. In lieu of an adverse interest against Rs for failure to produce 2008 modeling information, the Panel ordered production on 3/14/12 (which Rs did). During the evidentiary hearing, Rs withdrew their causes of action for conversion and constructive trust with prejudice. The Panel denied Rs Motion for Directed Verdict and to Require Compliance with Rule 13204. Damages Revised -- At the close of the hearing, Cs Smolchek requested the following damage amounts: compensatory damages in the range of \$3,253,281 and \$4,886,439 (originally unspecified), liquidated damages of \$166,335 (originally unspecified), \$5,000,000 in punitive damages (originally unspecified) and \$689,973 in attorney fees and costs (originally unspecified). Cs Ramazio requested the following damage amounts: compensatory damages in the range of \$663,937 and \$1,146,046 (originally unspecified), liquidated damages of \$20,872 (originally unspecified), \$5,000,000 in punitive damages (originally unspecified) and \$689,973 in attorney fees and costs (originally unspecified). Rs Merrill Lynch Pierce Fenner & Smith Inc. is liable on the claims of breach of fiduciary duty, breach of contract, unjust enrichment, unfair competition, tortious interference with advantageous business relations, defamation, breach of duty of good faith and fair dealing, fraud and negligence and is liable to Cs for the following damage amounts: to Cs Smolchek \$4,275,000 in compensatory damages, inclusive of interest; attorney fees to be determined by a court of competent jurisdiction; and \$3,500,000 in punitive damages.; to Cs Ramazio \$875,000 in compensatory damages, inclusive of interest; attorney fees to be determined by a court of competent jurisdiction; and \$1,500,000 in punitive damages. All awarded interest is reflected in the "A Other" field. Punitive damages are awarded pursuant to F.S. 768.72 et seq. and the Court opinions in Lance v. Wade, Rogers v. Mitzi and Schropp v. Crown Eurocars Inc. Cs Smolchek and Ramazio are awarded \$50,000 (respectively) as a monetary sanction against Rs Merrill Lynch for repeated discovery violations and abuse of process. The award of sanctions is in addition to all other monetary sanctions awarded by the Panel. Cs requests for liquidated damages (reflected in the "C Other" field) and costs are denied. Rs Counterclaim requests for attorney fees and costs are denied.

### Peculiar Cases

Big \$. Punitive Damages Awarded. Sanctions imposed. Arbitrator Remarks -- Case law cited. Explained Award. PAL -- Award CONFIRMED. See SAC-Litigation Alert, 2012-36, Ref. No. 2012-36-02 and SAC-Arbitration Alert, 12-38, Ref. No. 2012-38-02A. See 2012 S.A.M. 4.

### Professional

Cs: (MR & TS) Michael S. Taaffe & Michael D. Bressan & Jarrod J. Malone, Shumaker Loop & Kendrick, Sarasota, FL.  
Rs: (MLPFS) Douglas K. Spaulding, Reed Smith LLP, Washington, DC. OSC and Peter W. Homer, HomerBonner LLP, Miami, FL. OSC.

### Comments

Brokers: Meri Ramazio; Tamara Smolchek. Unnamed Brokers: Bob McCann; Lester Ranson Sr.; Diane Waller; Neil Barron; Jeff Ransdell. Cs asserted the following causes of action: breach of contract (FACAAP, Growth Award and Wealthbuilder); breach of duty of good faith and fair dealing; breach of fiduciary duty; constructive trust; unjust enrichment; conversion; unfair competition; tortious interference with advantageous business relations; defamation; violation of FINRA Rule 2010; negligence; and fraud. The causes of action relate to Cs employment and subsequent termination of employment with Rs following a change in control of Rs including the administration and disposition of Cs deferred compensation plans. Rs Merrill Lynch Pierce Fenner & Smith Inc. denied the allegations and asserted various affirmative defenses. On 3/11/11, Rs filed a Motion to Require Compliance with Rule 13204 in which it asserted that Cs had not filed a notice that meets the requirements of the rule because Cs had not affirmatively stated that they would not participate in the class action or any recovery resulting therefrom. On 3/21/11, Cs filed a notice of compliance with Rule 13204. Additionally, in response to Rs Motion, Cs asserted that they believed the notice previously provided to FINRA was sufficient, but in order to satisfy Rs objection, they affirmatively stated that they would not participate in any class action with regard to the deferred compensation plans or any recovery that may result from that class action. Inasmuch as Cs filed a notice of compliance with Rule 13204, the Panel issued an Order on 4/12/11 that denied Rs Motion to Require Compliance with Rule 13204. On 3/11/11, Rs filed an Objection to FINRA Jurisdiction Over FACAAP Claims in which it asserted that the FACAAP Agreement contains a forum selection clause that requires disputes to be arbitrated before the AAA or JAMS. In response, Cs asserted that: Rs is required under FINRA rules to arbitrate this case; contractually agreed to arbitrate this case in a Form U-4; previously and repeatedly submitted to FINRA jurisdiction over identical claims; and provided the Panel with plan language from the wrong year. On 4/12/11, the Panel issued an Order that denied Rs Objection to FINRA Jurisdiction Over FACAAP Claims -- Jurisdictional Issue. On 1/5/12, Cs filed an Emergency Motion for Sanctions and Independent Review of Discovery in which they asserted that Rs intentionally withheld numerous significant and relevant documents in violation of the Panel's 1/31/12 Order. In response, Rs asserted that: sanctions in this case cannot be based on allegations of discovery failures in other cases; sanctions may not be imposed based on Cs rank speculation that there must be more documents; and the 7/22/10 email was not intentionally withheld and cannot be a basis for sanctions. On 1/11/12, the Panel issued an Order that directed Rs to produce specified documents to Cs no later than 4:00 p.m. on 1/12/12. The Order further stated that the sanctions for non-compliance would be: a fine of \$1,000 commencing at 4:01 p.m. on Thursday 1/12/12 payable to Cs for each calendar day that the

**CONTINUED ON PG 2**