

Award
FINRA Dispute Resolution

In the Matter of the Arbitration Between:

Claimant
Tracy Noble Gilbert

Case Number: 12-02897

vs.

Respondents
Lanis Dale Noble
Stifel, Nicolaus & Co., Inc.

Hearing Site: Jackson, Mississippi

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

This case was decided by a majority-public panel.

REPRESENTATION OF PARTIES

For Claimant Tracy Noble Gilbert: W. Thomas "Tad" McCraney, III, Esq., McCraney, Montagnet, Quin and Noble, PLLC, Ridgeland, Mississippi.

For Respondents Lanis Dale Noble ("L. Noble") and Stifel, Nicolaus & Co., Inc. ("Stifel"): Shepherd D. Tate, Esq. and Ryan Baker, Esq., Bass, Berry & Sims, PLC, Memphis, Tennessee.

CASE INFORMATION

Statement of Claim filed on or about: August 10, 2012.

Tracy Noble Gilbert signed the Submission Agreement: August 10, 2012.

Statement of Answer filed by Respondents on or about: October 31, 2012.

Lanis Dale Noble signed the Submission Agreement: October 29, 2012.

Stifel, Nicolaus & Co., Inc. signed the Submission Agreement: October 29, 2012.

CASE SUMMARY

Claimant asserted the following causes of action: churning; failure to supervise; breach of fiduciary duty; fraudulent inducement and concealment; vicarious liability and negligence; constructive trust/ unjust enrichment; violation of Mississippi Securities Act, MS Code Annotated Sections 75-71-501, 502 and 509; violation of the Federal Securities Act, 15 U.S.C. Section 78(j)(b) and SEC Rule 10b-5; and violation of the Federal Investment Adviser Act, 15 U.S.C. Section 80b-6. The causes of action relate to Respondents' use of margin in Claimant's account as well as Claimant's purchases of variable annuities issued by SunLife and ManuLife, and of a Friedman Billings Ramsey real estate investment trust ("FBR").

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: compensatory damages of not less than \$8,000,000.00; punitive damages of not less than \$2,000,000.00; reasonable attorneys' fees; costs; pre and post-judgment interest; and any other legal or equitable relief deemed appropriate by the Panel.

At the close of the hearing and in Claimant's post-hearing submission, Claimant requested:

- Well-managed portfolio damages between \$4,300,000.00 and \$5,600,000.00, or alternatively, compensatory damages in the combined amount of \$4,175,000.00 comprised of: disgorged commissions in the amount of \$1,800,000.00; margin interest in the amount of \$180,000.00; surrender charges in the amount of \$40,000.00 and lost rider expenses in the amount of \$25,000.00, both attributable to the variable annuity exchange; FBR-related losses in the amount of \$830,000.00; and variable annuity losses in the amount of \$1,300,000.00;
- Attorneys' fees in the amount of at least \$166,950.00;
- Expenses in the amount of \$139,859.00;
- Pre and post-judgment interest at the rate of 8%;
- Non-economic damages for emotional distress;
- Punitive damages in an amount equal to three times the amount of compensatory damages awarded; and
- Damages payable to Claimant's daughter in the amount of \$44,000.00.

In the Statement of Answer, Respondents requested: denial of the Statement of Claim in its entirety; assessment of all costs, expenses and attorneys' fees to Claimant; and expungement of all references to this matter from Respondent L. Noble's Central Registration Depository ("CRD") record.

OTHER ISSUES CONSIDERED AND DECIDED

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

On or about June 1, 2012, Claimant commenced a civil action against Respondents in the United States District Court, Southern District of Mississippi, Jackson Division. The parties subsequently agreed to refer this matter to FINRA arbitration and entered into an

Agreed Order dated August 6, 2012, which stayed the civil action pending the outcome of the arbitration proceedings.

At the conclusion of Claimant's case-in-chief, Respondents moved to dismiss Claimant's claims, asserting that the claims are barred by the Mississippi Statute of Limitations and the Statute of Limitation under federal securities law. Claimant objected, stating that under Mississippi law, the statute of limitations does not begin to run until Claimant knew, or reasonably should have known, of the cause of action, and further asserted that the Statute of Limitations under Mississippi constructive trust law is ten years. After considering oral arguments and written briefs from the parties on this issue, the Panel denied Respondents' Motion.

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 recorded in-person 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 are jointly and severally liable for and shall pay to Claimant compensatory damages in the amount of \$1,292,342.00.
2. Pursuant to MS Code Annotated Section 75-71-509(f)(1), Respondents are jointly and severally liable for and shall pay to Claimant the sum of \$250,000.00 representing attorneys' fees incurred by Claimant in connection with this matter.
3. Claimant's request for pre-judgment interest is denied. Post-award interest, if applicable, shall accrue in accordance with Rule 12904(j) of the Code of Arbitration Procedure (the "Code").
4. Claimant's request for punitive damages is denied.
5. Inasmuch as Claimant's daughter is not a party to this proceeding, the Panel declines to rule upon Claimant's request for damages on her behalf.
6. Respondent L. Noble's request for expungement is denied.
7. Any and all relief not specifically addressed herein, including Respondents' request for attorneys' fees, 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

**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 Stifel is assessed the following:

Member Surcharge	= \$ 3,350.00
Pre-Hearing Processing Fee	= \$ 750.00
Hearing Processing Fee	= \$ 5,500.00

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

Claimant submitted one discovery-related motion
Respondents submitted one discovery-related motion

Total Discovery-Related Motion Fees = \$ 400.00

FINRA has waived the \$200.00 fee for Claimant's Agreed Orders executed by the Panel.

The Panel has assessed the \$200.00 fee for Respondent Stifel's discovery-related motion to Respondent Stifel.

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 the Panel @ \$1,200.00/session = \$ 2,400.00
Pre-hearing conference: January 17, 2013 1 session
September 2, 2014 1 session

Twenty-One (21) Hearing sessions @ \$1,200.00/session = \$25,200.00
Hearing Dates: December 10, 2013 2 sessions
December 11, 2013 2 sessions
December 12, 2013 2 sessions
December 13, 2013 2 sessions
September 9, 2014 2 sessions
September 10, 2014 2 sessions
September 11, 2014 2 sessions
January 5, 2015 2 sessions
January 6, 2015 2 sessions
February 24, 2015 2 sessions

February 25, 2015

1 session

Total Hearing Session Fees =\$27,600.00

The Panel has assessed \$5,520.00 of the hearing session fees to Claimant.

The Panel has assessed \$22,080.00 of the hearing session fees jointly and severally to Respondents.

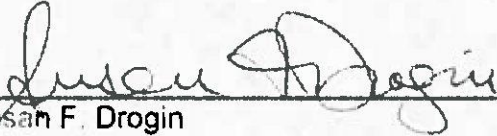
All balances are payable to FINRA Dispute Resolution and are due upon receipt.

ARBITRATION PANEL

Susan F. Drogin	-	Public Arbitrator, Presiding Chairperson
Douglas E. Miller	-	Public Arbitrator
John J. Meyer	-	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



Susan F. Drogin
Public Arbitrator, Presiding Chairperson

3/31/15

Signature Date

Douglas E. Miller
Public Arbitrator

Signature Date

John J. Meyer
Non-Public Arbitrator

Signature Date

3/31/15

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

ARBITRATION PANEL

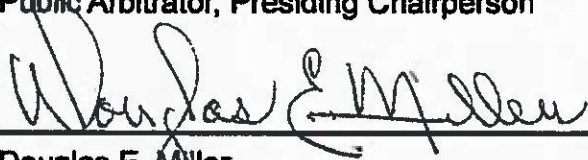
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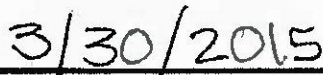
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Signature Date




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Public Arbitrator



Signature Date

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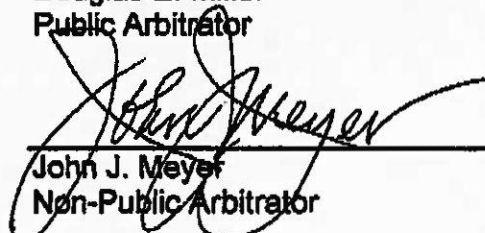
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Susan F. Drogin
Public Arbitrator, Presiding Chairperson

Signature Date

Douglas E. Miller
Public Arbitrator

Signature Date



John J. Meyer
Non-Public Arbitrator

Signature Date
3/30/2015

3/31/15

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