

SECURITIES ARBITRATION COMMENTATOR

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IN THIS ISSUE

PRODUCT SURVEY:

In this Award Survey, we utilized the statistics on FINRA's WebSite, along with statistics drawn from SAC's Award Database, to examine the impact that certain investments or securities products have on the dynamics of the dispute. Among other observations, we examine "win" rates for customers, broken down by product, the amounts awarded to winning customers, and the likelihood that, given a particular product, the customer and broker-dealer will fight to Award or arrive at a negotiated resolution..... **1**

IN BRIEF

All-Public Option Effective; PAPP Award Survey; Petition 4-586 (PIABA); Award Survey, Single Arbs; FINRA@SER Conference; RN10-37 (Arb Lists, 8 to 10); RN 10-40 (Witness Representation); Online Claim Filing; Discovery Guide Proposal & Comment Letters; Mid-Case Referrals; Dodd-Frank Analyzed; Fiduciaries & PDAA's; Arbitration & Efficient Markets; Award Survey, Big \$\$; AAO & Vacatur; Securities ADR Triathlon; FINRA-DR & Privacy; TNC (2X); SIFMA & Dodd-Frank; FINRA Financials; MTD Video; Sears PDAA; Class Action Waivers & NLRB..... **9**

ARTICLES & CASE LAW

Securities arbitration pondered and decided..... **21**

SAC's BULLETIN BOARD

New from & about people in securities arbitration..... **43**

SCHEDULE OF EVENTS

Seminars and conferences scheduled in the coming months..... **44**

PRODUCT SURVEY: Customer Disputes 2006-2010

How the Product Involved Affects Arbitration Settlements & Award Outcomes

Introduction

In the two-plus decades since SAC began publication in 1988, this newsletter has published scores of Award surveys parsing securities arbitration Awards in practically every way we could imagine. One way that we could imagine, but not practically manage, was to measure Award results broken down by product. While product or "type of security" identification has been a required information element in SRO Awards since 1993, we simply were not confident enough about the integrity of the information to use product as the basis for an Award Survey article.

As a consequence, if readers looking for past Award surveys and general statistical information about case probabilities go to "View Award Surveys" on SAC's WebSite (www.sacarbitration.com > SAC's Research Center > View Award Surveys), they will find surveys through the years looking at outcomes for customers, outcomes for employees, raiding Awards, and annual Award analyses going back to 1989.

Visitors to "View Award Surveys" will also find more focused surveys, parsing Awards by forum cost allocation, by forum, by types of relief (punitives, attorney fees, etc.), by arbitrator classifications, by state, by type of dispute, by types of sanctions, by grants of expungement relief, by hearing length, by motion practice, by top BDs, by pro se representation and by size of claim, but not much by product (although we have examined limited partnership and online trading Awards in past surveys).

The reasons for this reticence have been primarily internal here at SAC. True, FINRA fails to identify the type of security involved in the dispute in approximately 13% of the relevant Awards, so there does exist an irksome "GIGO-type" problem (more about that as we warm to the subject). Yet, the failings fall mostly with us. In the past three years, we have worked to resolve these issues and, today, we have reliable "Product" information in our Award records going back five years and growing.

The same goes for "type of controversy," as we hope to show in an upcoming edition of SAC. This edition concentrates on a breakdown by product of customer-initiated Awards relating to the past three and five years. We chose the three-year time period for our Product Comparison Chart (Chart 1, *infra*), because FINRA has expanded the list of security-types it tracks over the past three years and we wanted to compare our results to the FINRA charts. Chart 2, our Product Results Chart, spans the last five years as a whole and analyzes outcome differences for customers depending upon the generic product involved in the dispute.

The investment behind the dispute is important intelligence. We have now added a new "Product" field to our ARBchek arbitrator reports, with the assurance of users who want to know the types of investment vehicles with which their nominated arbitrators have had some acquaintance. In a coming iteration of revised ARBchek reports, we will be adding an "Allegation" field

cont'd on page 2

PRODUCT SURVEY *cont'd from page 1*

to the reports. Product and Allegation fields are already in place in "UPDATE: ARBcheck," a free, open e-mail service that summarizes the very latest Awards as they issue and goes out weekly to a couple thousand practitioners.

The prospect we have not studied in the past – a logical one for statistical examination, we think – is the extent to which the type of product involved in the dispute makes a difference in the way arbitrators will view the case. Here, we are talking about general classifications of products, not individual securities by name; even staying with general classifications, we consider that the product involved will be one factor that impacts win rates and recovery rates.

Methodology

In compiling our Award data, we used only customer-initiated cases: Small Claims disputes that involved compensatory claims of \$25,000 or less; and the larger CustomerMember disputes. Product-related cases are almost always customer-related cases and, by the same token, only a relative handful of customer cases do not focus on the types of investments the customer bought or sold. In considering various products, we did not isolate cases that concerned only that one product, but considered all cases in which that product was a focus of the dispute.

In examining the Customer-Member Awards, we did not try to make a distinction between three-person panels and the one-Arbitrator cases involving \$25,000-\$100,000. We did eliminate from consideration Stipulated Awards, because the outcomes in settled cases do not commonly reveal arbitrators' views on the merits and the amounts exchanged in settlement are not usually disclosed. In Chart 1, we separate CustomerMember Awards from Small Claims Awards to see if there are recognizable differences that relate to the size of the dispute. In Chart 2, we combine the two in weighing the outcomes by product, in order to focus on product dynamics.

Chart 1 relies upon data supplied by FINRA Dispute Resolution in its regularly published statistical reports. For 2010, we used the FINRA reports of newly filed claims based upon 12 months of product data, as disclosed in FINRA's December 2010 report. It is important to keep in mind that SAC's data in Chart 1 derives from a different base. FINRA classifies the claims. SAC classifies the Awards – those 20% or so of the claims that result in decisions by the arbitrators after a hearing or review of documents. In that sense, we can be said to compare "apples to oranges" – or, more favorably, apple slices.

cont'd on page 3

SECURITIES ARBITRATION COMMENTATOR

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PRODUCT SURVEY *cont'd from page 2*

That the data sources are different can lead to a number of distinctions. For instance, FINRA might identify one product from a Statement of Claim, but, as the process progresses, other products may be identified that caused losses. The clerk who designates a dispute as one involving limited partnerships may differ with the attorney drafting the Award who sees it as a mutual fund dispute. Then, too, the clerk may identify the product and the attorney may simply write "unspecified securities." Still, a commonality persists between what enters arbitration and what exits.

To accommodate this "apples-to-oranges" conundrum, we utilize a new term in this Product Survey – "decision ratio." In determining rates, such as "win" rates and "recovery" rates, one compares a quantity in the numerator to a quantity of the same type in the denominator. In the case of the decision ratio, we compare the number of Awards relating to a product to the number of claims relating to that product. Claims and Awards are two different things, albeit they relate to the same product and to the same time frame. Thus, the numerator is not a part of a whole -- the whole being the number in the denominator -- as it is when determining a rate; rather, the decision ratio is a comparison of two variables and the ratio for a given product may be compared with the ratios regarding a range of products.

Finally, to make Chart 1 work, we restricted our Award research to only those products that FINRA covers in its online "Type of Security" Chart. SAC's "Product" field was defined in the early 1990s and our objective was to identify as many product types as we could among the various disputes. Thus, to harmonize the two field sets, we often needed to search several product fields. For example, to find all product Awards for FINRA's "Options" category, we searched SAC's Award Database for options, equity options, index options, and options on futures. Indeed, the difficulty in making comparisons between the two sets led us to omit one FINRA category from the Survey: Derivative Securities.

A Word About Derivatives

Derivative securities have been an important element in the product mix at FINRA in the past three years, so we tested our data closely. FINRA recorded more than 1,600 incoming disputes in this category during 2008-2010, with fully half of the total (801) arriving in 2008. Given this front-load, most of these disputes should have been heard in 2009 and 2010. However, we recorded too few in our searching that fit this product description to be comfortable with our analysis. We double-checked our findings on FINRA's Arbitration Awards Online (AAO), using fairly broad search terms, such as "structured," "asset-backed," "subprime," and "derivative," and we identified fewer than 30 Awards for the three-year period. That actually comported with our finding on the Database: a dearth of Awards in this product category.

Thirty out of 1,600 – what is going on? It may be that the "unspecified securities" nomenclature FINRA uses in 13% of Customer-Member Awards accounts for additional "Derivative Securities" Awards. It may be that Award drafters are timid about applying these esoteric product terms. One support for this latter theory is the near absence of product identification lapses in Small Claims Awards, where, as we describe later, derivative products are not prevalent and commonly known products, such as common stocks and mutual funds, abound.

Of course, it may truly be that these disputes are settled in disproportionate numbers, because the regulatory activity surrounding them, the negative public opinion, and the presence of institutional customers in the mix all dictate quick and predictable resolutions. Nevertheless, a failure to identify more than a score or two of derivative-related Awards left us with the belief that prudence dictated exclusion of this category; inclusion would only supply tentative conclusions.

Chart I – Product Comparisons

In this Chart, our objective was to compare the number of filings for the

three-year period to the number of decisions arbitrators rendered and see whether the product involved makes claims more or less susceptible to party settlements. We also sought to examine whether the size of the claim makes a difference in terms of the products involved in the disputes. We had some developing notions about the latter, but no set opinions about the former.

Auction Rate Securities (ARS):

The ARS product offers a good platform for illustrating what we seek in these product comparisons. ARS burst upon the arbitration and regulatory scene in February 2008 with the dramatic auction freezes and price collapses that followed. One might project that relatively few of these cases would be tried to Award, because regulatory and other settlements resolved so many of the retail disputes. This security type, perhaps for the first time, has pulled institutional investors into arbitration in a big way. We might project from this profile that few of the Awards would fall into the Small Claims category because of the restitution efforts, the nature of the product and the spectacular loss of price support. In fact, only 72 Awards issued in a period when 724 ARS claims were filed with FINRA, just 10% on average ("decision ratio"). Moreover, only nine of those 72 Awards fell into the Small Claims dispute category.

Preferred Stock:

In addition to the flood of new derivative and ARS disputes during the 2008-2010 period, preferred stocks were lifted from product obscurity into the arbitration limelight by some re-conditioning of that product and a surge in use by financial institutions. Here's what one Claimants' law firm said about preferred stock on its WebSite in 2008: we are "currently investigating claims on behalf of investors who have sustained economic losses as a result of overconcentration in 'preferred' stocks issued by financial companies. Many financial based companies (mortgage companies, banks and brokerage firms) began issuing shares of preferred stock earlier this year in an effort to raise much needed cash." (www.ssekllaw.com)

cont'd on page 4

PRODUCT SURVEY *cont'd from page 3*

In January 2008, preferred stocks were not even on the FINRA “Type of Security” chart. Twelve months later, FINRA was reporting 115 new claims involving preferred stock and that number jumped to 481 in 2009. At the same time, only seven Awards were rendered in 2008, showing again how this product suddenly acquired case volume. Over the three-year survey period, new filing volume flowed and ebbed, while the number of preferred stock Awards grew steadily, rising by 2010 to 67. All in all, 86 Awards issued between 2008-2010, according to Chart I, while FINRA reported 828 case filings. Thus, on average, the “decision ratio” of Awards dealing with preferred stocks versus new filings of preferred stock claims stands around 10%.

Corporate Bonds: Corporate bonds or, more generally, corporate debt, followed a similar path as preferred stock. Bonds did appear on the FINRA “Type of Security” Chart in January 2008, but the Authority only reported 71 related claims in 2007. That volume more than doubled in 2008, redoubled in 2009 and, in 2010, volume was still well above historical norms, with FINRA registering another 239 related claims. Debt brings a somewhat different kind of investor into arbitration. Bonds are generally bought by conservative, often well-heeled investors, looking for yield more than appreciation, and the investments are usually larger, sometimes of nest-egg proportions. Profile-wise, these investors might be more sympathetic Claimants – perhaps, also, more prone to settle -- and fewer of the claims would be of the Small Claims variety. In this way, one sees how product drives case dynamics and characteristics.

With 111 Awards rendered versus 775 filings in the three-year Survey period, corporate bonds reflect a somewhat higher decision ratio (14%) than does preferred stock. A 14-17% decision ratio appears to be fairly normative – that is where mutual funds and common stock disputes fall in a range that runs in Chart 1 from 6% to 23%. Only twelve of the 111 Awards were rendered in Small Claims cases, suggesting by extension that most of the claims that were originally filed

in this category were of a larger-dollar variety. As for such Claimants being sympathetic, we will see in Chart 2 that may not be so – Corporate Bond Claimants won only 42% of the time.

Variable Annuities/Annuities:

FINRA separately accounts for these two products, quite rightly, as it accents the distinction between annuities as an insurance product and variable annuities as a hybrid securities product. Taken together, these two products are involved in a significant number of disputes – nothing like mutual funds and common stocks – but about 1,400 in total during our Survey period. The disputes regarding each are primarily of a larger-dollar nature and Chart 2 indicates that the overall “win” rates do not differ much between the two products. Not many go forward to Award, however, especially among the annuities-related matters. There, the decision ratio was the lowest we found among the FINRA-listed products (except for derivatives) -- a single-digit 6%, i.e., 47 Awards versus 744 annuity-related case filings!

The decision ratio for variable annuities was 12%, i.e., 78 Awards versus 626 variable annuity-related case filings for the three-year period. When we expanded our Award universe to five years in Chart 2, we saw that the real activity in these two products had already passed by the Chart 1 period. There were only 125 Awards rendered in the Chart 1 period, 2008-2010, while a total of 321 Awards issued during the five-year period surveyed in Chart 2: 2006-2010. Significantly, none of these Awards carried a Small-Claims designation, demonstrating once again the profile of the two products as lump-sum in character.

Common Stocks & Mutual Funds:

We might have expected to find that Small Claims Awards relate to the same kinds of products as the larger-dollar disputes, just on a smaller scale, and that just as many well-heeled investors are involved in Small-Claims disputes as in Customer-Member disputes. That assumption has a democratic appeal to it, but Chart 1 shows that it is not

valid. People who bring Small Claims cases are probably small investors. The types of products they complain about or that drive the losses they claim are very heavily concentrated in the two most prevalent and widely distributed products in the U.S. markets: equities and mutual funds.

Between common and preferred stock investments, mutual funds and ARS purchases, the great majority of the products involved in the Small Claims Awards category are described. (ARS purchases may seem anomalously sophisticated as a product, but recall that they were allegedly sold as money market substitutes to some investors). Note that there were no Small Claims Awards in all of 2010 dealing with annuity products, viatical settlements, REITs or government securities, and only one each dealing with municipal securities and a limited partnership product. Somewhat more surprising, we found no Small Claims Awards involving options or commodities futures products, either.

In the larger-dollar disputes, mutual funds and equities appeared in many cases as well, just not with the concentration we noted among the Small Claims Awards. Common stocks and mutual funds were involved in some 6,500 disputes recorded by FINRA between 2008-2010 and in 687 of the 1,498 Customer-Member Awards in SAC’s Award Database for the period 2008-2010. While we lump them together for purposes of showing their dominance in all customer-related areas, mutual funds and common stocks do have different decision ratios: 14% and 17%, respectively. We cannot readily explain why mutual fund cases would be more amenable to settlements than mutual fund disputes, other than to observe that sales loads are more problematic than stock commissions – more room for mischief. We can say that both security-types fall in the middle range among the various product decision ratios and their win rates, as Chart 2 discloses, are similar and on the low end of the range.

cont'd on page 5

PRODUCT SURVEY *cont'd from page 4***Chart 2 – Product Results**

Three major differences in approach distinguish Chart 2 from Chart 1: (1) the larger number of products we consider in Chart 2; (2) the aggregation of five years of Award results, instead of a year-by-year breakdown; and (3) the aggregation of all customer-initiated Awards with no separate breakout of Small Claims Awards. Chart 2 product listings include not only those that FINRA reports, but also adds other products SAC records as involved in customer disputes that reach an Award. This Chart enables us to show that the phrase “unspecified securities” represents the third most prevalent product in arbitration, after common stocks and mutual funds (*ed: We show 494 such designations; a word-search of the FINRA AAO for the years 2006-2010 reflects the phrase appearing in 642 Awards.*)

Chart 2 does contain a row of statistics for “no product” cases, but those are different than the Awards in which FINRA ignores the Rule requirement in FINRA Rule 12904 and neglects to identify the product involved, describing it instead as “unspecified securities.” Sometimes, an investor’s complaint does relate to problems other than the investments in the account, such as excessive service fees, failure to adhere to a settlement, transfer problems, and other disputes more related to service than to sales practices. In the “no product” cases, the FINRA Award summarizes the nature of the dispute sufficiently to make clear that no particular product lies at the center of the dispute. In the “unspecified securities” cases, the FINRA Award reveals no effort to supply required product information.

Chart 2 seeks to measure the results from the standpoint of victories for the public customer and dollar recoveries when the customer does win. The individual product breakdowns are feasible for most security-types, because we use a full five years of data in our analysis. Some of the product statistics, e.g., the commodities futures and viatical settlement breakouts, do not reflect enough Awards to provide “win” and “recovery” rates that are certain. Thus,

although we note with interest that every winning “viatical” Award resulted in a full-dollar recovery (with punitives in one case), we do not endorse as reliable the 179% recovery rate presented in Chart 2. Readers should make their own conclusions in this regard.

While we did not plan it so, including the dollar amounts in Chart 2 for the aggregate of all compensatory claims by product and of all amounts awarded by product, led to observations we had not deliberately set out to make. One can easily see that the product involved in the dispute impacts the size of the claims. Claim size, by extension, can affect a number of other case dynamics, such as the turnaround time, the profile of the customer, even the profile of the counsel involved.

For instance, the ARS cases involve large sums both in claim amounts and awarded amounts. As Chart 2 shows, just 35 cases produce monetary awards that equal the claims made in some 900 mutual fund and common stock Awards and the \$526 million won in those 35 cases exceeds by half again the amounts won in all the winning common stock and mutual fund cases. Many of these ARS matters involved large losses by institutional clients. The claimed losses in the winning cases average \$21 million and the awards average \$15 million. These cases are really *sui generis* in securities arbitration.

Limited Partnership Disputes

Limited Partnerships (LPs or “Direct Investments,” as SAC classifies them) were also responsible for favorable Award results for investors with claims involving those products. A 68% “win” rate is based upon a survey of 50 Awards so classified, which makes us more comfortable in the conclusion that these disputes are not generally good prospects for broker-dealer victories. Unusually high, too, is the recovery rate for the LP disputes, only here, the 89% rate is overstated, as we indicate in a footnote to the Chart. One Award resolves a limited partnership dispute for \$12.6 million, but no compensatory claim amount is disclosed in the Award.

Determining a proper recovery rate requires knowing both the amount awarded and the compensatory claim in a dispute. The Award in question, *Sandalwood v. Merkin*, involved a Madoff sub-feeder fund dispute arbitrated before the AAA, where the Claimants were not pressed to specify their compensatory claims. This had a skewing effect on recovery-rate calculations. In this case, deducting the \$12.6 million from the total in awarded monies for LP disputes of \$30.6 million allows a more representative recovery rate to be calculated; that exercise reveals a 53% recovery rate for cases involving a direct investment product.

Private Securities Transactions

While some “selling away” transactions are not identifiable from the case summaries provided in FINRA Awards, we identified 70 over the five-year Survey period. FINRA does not attempt to track this class of dispute, but it has been a ready source of cases in the past, particularly in the new Millennium decade. Investors in these failed ventures are, for the most part, unprotected by the house’s supervisory procedures and, oftentimes, the house is not even aware of the outside activity. We denominate Awards involving this kind of dispute as “Private Securities Transaction” (PST) cases, in recognition of the surrounding rule requirements contained in the FINRA Rule of that name, Rule 3040.

The WebSite Investopedia (www.investopedia.com) describes private securities transactions thusly: “NASD (FINRA) Rule 3040 generally prohibits registered representatives from handling a securities transaction for a customer through another firm. Such a private security transaction is known as ‘selling away.’” Because the Claimant is so clearly a victim in these cases, a high “win” rate – in this Survey, a 73% “win” rate -- is not surprising. The real taffy pull occurs over whether the brokerage firm or just the broker will be liable, with the Claimant pointing out the equity of a recovery from some source and the house often claiming no knowledge or economic benefit from the failed investments.

cont'd on page 6

PRODUCT SURVEY *cont'd from page 5*

Treating this class of cases as a “product” seems right to us. While different types of investments are involved in this outside activity, the gravamen of the complaint lies in the process by which the broker defrauded customers and disguised her conduct, deceiving the aggrieved investors, as well as, in many cases, her firm. Punitive damages are relatively frequent in these PST disputes and, at times, these sanctions are levied on the firm as well as the broker. With eight punitive damages awards among the 51, the recovery rate for this product or case class comes in high (96%), but the rate is not greatly skewed. The punitive-damages awards are frequent enough to be considered in the total recovery mix and there are no huge outliers, size-wise. We do footnote one Award, involving a \$4.1 million punitive-damage award and a compensatory award that exceeded the stated compensatory claim amount by about \$500,000.

Win Rates, Recovery Rates & Claim Size

Overall, the score of various products covered in Chart 2 displays a fairly wide range of “win” rates and “recovery” rates. Many of the products reflect a close grouping on “win” rates in the mid-40s, which matches the FINRA average for all customer Awards, but the “win-rate” range for all listed products runs from a low of 36% (Government Securities) to the 73% high we mentioned for selling away (PST) cases. Recoveries also assume a wide range, from 26% and 32% for Common Stock and Government Securities cases on the low side, through a half-dozen products in the 70s and 80s range, to the 96% we mentioned for PST cases (and the outlier 179% for viaticals).

While we noted above the likenesses between the many product cases involving mutual funds and those involving common stocks, we also saw in Chart 2 a significant division between the two products when it comes to average recovery rates (58% vs. 26%, respectively). Common stock disputes involved more than double the dollar amount of compensatory claims, but

the aggregate amount awarded in 364 mutual fund “wins” (\$151.7 million) was essentially equivalent to the aggregate amount awarded in 525 common stock “wins” (\$149 million). As these two security-types are involved in a majority of the Awards that have issued in customer disputes over the past half-decade, we think that this distinction, a substantial difference between mass-product recovery rates, is important to know and consider.

Conclusion

Arbitration periodically draws focus in the legal and regulatory communities to problems that develop with particular investment vehicles. Claimants seek to portray the losses that arise from these product problems as “product defect” cases, while Respondents will respond with defenses based upon suitability and general market declines. Limited partnership cases in the early to mid-1990s were commonplace and became the subject of numerous arbitrations, media attention and a few books. Disputes arising from penny stocks and schlock houses occupied securities arbitration in the late 90s and the “tech-wreck” cases kicked off the early “aughts” at the turn of the Millennium. Since 2008, the focus has fallen upon products structured around debt instruments, including subprime mortgages and other credit vehicles.

Products involved in FINRA arbitrations are required to be identified in the Public Awards. FINRA has also reported product statistics regularly in monthly statistical reports that the forum has been posting since 1999. Identifying the investment vehicle or security-type aids our understanding of the nature of the disputes that led to arbitration proceedings and, as we posit in this Survey, has a dynamic effect on Award outcomes.

We anticipated that disputes related to products that were the subject of regulatory attention and settlements would commonly settle more easily. That would be particularly so, where the regulatory settlements included restitution to investors, because, there,

the outcomes would be most predictable. To test whether certain products would reveal higher settlement rates or, put in the obverse, a lower percentage of cases being decided by arbitrators, we established a “decision ratio” comparing the number of product claims filed during the three-year period between 2008-2010 to the number of Awards involving that product.

Chart 1 revealed few stark differences driven by the product involved, but the decision ratios for some products, such as annuities, auction rate securities, and preferred stocks, were relatively low. These products, often proprietary or “home-grown” securities, fall into the category of those receiving regulatory attention. On the other hand, where liability was more arguable or causation more remote in nature, such as in the hedge fund/direct investment cases, broker-dealers were, perhaps, less likely to settle; in cases of that nature, we saw decision ratios on the high end (see, e.g., limited partnerships – 23%). Most decision ratios fell into a fairly close grouping of 12-17%, leaving us reluctant to assign reasons for small differences with certitude.

One important Chart 1 revelation was the very different product patterns that exist between Small Claims disputes and larger-dollar disputes initiated by customers. Judging from the concentrations of disputes involving mutual funds and common stocks, we concluded that Small Claims customers are indeed small investors, people with limited means who have a limited presence in the stock market. They do not – generally speaking, as always -- invest in individual debt and annuity products, derivative securities or hedge fund investments, and, as Chart 2 shows, they generally are not the targets of selling away artists.

Breakdowns of “win” rates and “recovery” rates by product in Chart 2 were more telling and diverse, percentage-wise. This Chart also “shows us the money,” as it indicates the magnitude of claimed losses by product. ARS disputes

cont'd on page 7

cont'd from page 6

are huge in this regard, but the “bread and butter” of arbitration continues to concentrate in the disputes arising from mutual fund products and common stocks. Aggregate claims in those three product categories numbered in the hundreds of millions of dollars, while most other products generated aggregate claims in the tens of millions or less. We have a closing suggestion for FINRA-DR that might help improve compliance with Rule 12904 and avoid

the need to insert “unspecified securities” into Award case summaries quite so much. Asking sitting arbitrators to identify the products involved in the Award Information Form that the Panel completes at the end of each case would capture more accurate information about the investment vehicles that generated the losses. Staff attorneys could more confidently draft the “Case Summary” section of the Award, statistical information regarding outcomes by product

would be more telling and precise, and future parties sifting through arbitrators’ Awards, looking for product experience, would be better served. ■

PRODUCT COMPARISON CHART										Chart 1
Customer-Member (C/M) and Small Claims (S/Ams) Awards 2008-2010										
FINRA: TYPES OF SECURITIES (EXCLUDES DERIVATIVE SECURITIES)	YEAR 2010			YEAR 2009			YEAR 2008			DECISION RATIOS C/m/Awd (%)
	FINRA CLAIMS	C/M AWARDS	S/CLMS AWARDS	FINRA CLAIMS	C/M AWARDS	S/CLMS AWARDS	FINRA CLAIMS	C/M AWARDS	S/CLMS AWARDS	
Annuities (Insurance)	208	20	0	300	13	7	236	3	4	6
Annuities, Variable	279	28	0	300	24	0	47	22	4	12
Auction Rate Securities (ARS)	149	37	7	276	25	2	299	1	0	10
Certificates of Deposit (CDs)	41	5	2	71	15	1	31	9	0	23
Common Stocks	862	127	43	1367	85	78	773	128	52	17
Corporate Bonds	239	42	5	373	37	1	163	21	6	14
Limited Partnerships (Direct Investments)	80	28	1	73	9	0	33	3	1	23
Mutual Funds	863	150	43	1556	127	78	1069	70	20	14
Options	161	29	0	275	22	6	149	22	4	14
Preferred Stocks	232	60	7	481	8	5	155	3	3	10
Unspecified Securities	-	88	0	-	68	0	-	70	10	-
Total Number of SAC Awards (C/M & S/C/m)	-	634	175	-	488	235	-	376	112	-
Total Number of FINRA Cases Filed	5717	┌──────────┐		7137	┌──────────┐		4982	┌──────────┐		
Total Number of Cases Closed		└──────────┘			└──────────┘			└──────────┘		
		6216			4571			3757		
Total Number of Awards Issued		1450E			1149			897		

cont'd on page 8

PRODUCT RESULTS CHART

Chart 2

Customer-Initiated Awards 2006-2010 (Omits Stipulated Awards)

FINRA: TYPES OF SECURITIES (EXCLUDES DERIVATIVE SECURITIES)	TOTAL NO. AWARDS	NUMBER OF "WINS"	AMOUNT WON (\$) (OMITS 000'S)	COMPENSATORY AMOUNT CLAIMED (\$) (OMITS 000'S)	WIN RATE (#WINS/ #AWARDS)	RECOVERY RATE (COMPENSATORY CLAIMED AMOUNT WON) (%)	FOOT- NOTES
Annuities (Insurance)	126	57	6,932	18,413	45	38	
Annuities, Variable	195	86	19,459	44,074	44	44	
Auction Rate Securities (ARS)	73	35	526,130	738,275	48	71	FN1
Certificates of Deposit (CDs)	41	20	18,996	24,027	49	79	
Common Stocks	1,322	525	149,167	563,698	40	26	
Corporate Bonds	189	79	29,115	60,565	42	48	FN2
Limited Partnerships (Direct Investments)	50	34	30,631	34,236	68	89	FN3
Mutual Funds	837	364	151,652	263,529	43	58	
Options	150	62	22,871	57,803	41	40	
Preferred Stocks	75	31	2,353	6,263	41	38	
Unspecified Securities	494	-	-	-	-	-	
SAC: Additional Products**							
Futures, Commodities	10	5	1,302	1,622	50	80	
Government Securities	22	8	3,392	10,729	36	32	
Margin	211	86	54,944	72,751	41	76	
Money Market Funds	17	7	1,229	1,571	41	78	
Municipal Securities	72	32	14,487	23,828	44	61	
No Products	125	43	4,333	9,118	34	48	
Private Securities Trans- actions (Selling Away)	70	51	30,916	32,210	73	96	FN4
Real Estate Investment Trusts (REITs)	21	13	8,538	25,411	62	34	
Unit Investment Trust (UITs)	20	8	3,485	4,731	40	74	
Viatical Settlements	9	6	3,130	1,752	67	179	FN5

Footnotes & Observations:

FN. 1: The ARS product row includes at least five Awards with skewing amounts: FINRA ID #09-03990, *Kajeet v. UBS*, w/ an \$80.8 mil. award and \$110 mil. in compensatory amounts claimed; FINRA ID #09-00950, *Catalyst Health v. Credit Suisse*, w/ a \$9.8 mil. award and \$36.9 mil. in compensatory amounts claimed. FINRA ID #08-01117, *Chase v. UBS AG*, w/ a \$95.9 mil. award and \$75.1 mil. in compensatory amounts claimed; FINRA ID #08-04948, *Westervelt Co. v. BOA*, w/ a \$6.0 mil. award and \$99.5 mil. in compensatory amounts claimed; FINRA ID #08-00512, *STMicro v. Credit Suisse*, w/ a \$477.2 mil. award and \$415.0 in compensatory amounts claimed.

FN. 2: The Corporate Bond product row includes at least two Awards with skewing amounts: NYSE ID #2005-01637, *Ramius Cptl. v. Bear Stearns*, w/ a 1.9 mil. award and \$17.3 mil. in compensatory amounts claimed; FINRA ID #04-01758, *Sandler v. Janney Montgomery Scott*, w/ a \$3.3 mil. award and no specified \$\$ in compensatory amounts claimed.

FN. 3: The Limited Partnership/Direct Investments product row includes a large AAA Award in which no claimed compensatory amount is specified. AAA ID #13-148-4-01046-09, *Sandalwood Debt Fund v. Merkin*, w/ a \$12,627 mil. award and no C/C (hedge fund case)

FN. 4: 8 of 51 winning Private Securities Transactions Awards included punitive-damage awards. One, *Casper v. Gross*, FINRA ID #07-00624, awarded \$4.1 mil. in punitive damages as part of an award totaling \$7.2 mil. and \$2.5 mil. in compensatory amounts claimed. Broker Gary Gross was assessed, while the broker-dealer Respondents were not assessed.

FN. 5: All wins among the Awards in the Viatical Settlement product row were for amounts that equaled or exceeded the compensatory amount claimed and in one case, FINRA ID #05-02261, *Rau v. Stipek Secs.*, punitive damages were awarded. The full amount awarded was \$1.4 mil. and the compensatory amount claimed was \$868,000.