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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED,

Plaintiff,

vs.

CHRISTINA BILLINGTON AS SUCCESSOR TRUSTEE FOR THE JAMES A. BILLINGTON TRUST; STEVEN MORENO; AND DONALD STRASZHEIM,

Defendants.

Case No. 2:17-cv-8150

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

COMPLAINT

Plaintiff Merrill Lynch, Pierce, Fenner & Smith Incorporated ("MLPF&S") hereby alleges as follows in support of its claim for relief against Defendants Christina Billington ("Billington") as Successor Trustee for the James A. Billington Trust ("Billington Trust"), Steven Moreno ("Moreno"), and Donald Straszheim ("Straszheim").

NATURE OF THE ACTION

1. This is an action to enjoin proceedings in three FINRA arbitrations (the "FINRA Arbitrations") that Defendants have recently initiated in this district against MLPF&S. In the FINRA Arbitrations, Defendants assert identical untimely fraud claims seeking recovery for the alleged decline in the value of their Merrill Lynch & Co., Inc., ("ML & Co.") stock holdings. ML & Co.—not MLPF&S—issued the stock that Defendants claim declined in value. As described below, Defendants assert various misrepresentations and omissions by ML & Co. that allegedly resulted in the decline in the stock's value. Defendants do not make any allegation against MLPF&S relating to its role as broker-dealer, let alone assert that MLPF&S's acts as broker-dealer caused their loss. These claims do not belong in arbitration at all, let alone in an arbitration against MLPF&S.[1]

[1] Defendants' operative FINRA statements of claim (without voluminous attachments, consisting of public records) are attached as Exhibits B-D to this Complaint. In addition to these three FINRA claims, Defendants' counsel has filed, to date, sixteen other FINRA claims against MLPF&S across the country making identical allegations. None of these claims are appropriate for FINRA arbitration. MLPF&S intends to seek to enjoin all such inappropriately filed FINRA claims. MLPF&S reserves all rights arising under any class action settlement agreement pertaining to classes as to which any Defendant or predecessor-in-interest was a member, or other agreements as to which any Defendant or predecessor-in-interest was a party. MLPF&S further reserves all rights, arguments, and defenses, including with respect to jurisdiction and venue, in the event Defendants elect to dismiss their FINRA arbitrations and file claims in this or any other court.

1 2. In the arbitration statements of claim, each Defendant asserts that he or
2 she was injured as a result of ML & Co.'s failure to disclose its alleged risks and
3 activities related to subprime mortgage originations and subprime mortgage-related
4 securities prior to 2008. Defendants assert that ML & Co.'s concealment of
5 "billions of dollars of fraudulent mortgages and fraudulent RMBS and CDOs" (two
6 types of mortgage-related securities) caused the Defendants to hold onto ML & Co.
7 stock and suffer injury when the value of the stock declined.
8 3. Defendants allege that they were injured by the decline in value of their
9 ML & Co stock holdings. Defendants also cite ML & Co.'s conduct and public
10 statements of ML & Co. management—including its CEO and CFO—as the cause
11 of those injuries. Defendants do not, however, name ML & Co. as a respondent in
12 their FINRA Arbitration claims. ML & Co. was not, and has never been, a FINRA
13 member. To bring an action against ML & Co., Defendants would have to file suit
14 in court. MLPF&S, by contrast, *is* a FINRA member—but it did not engage in the
15 conduct that Defendants cite as causing their injuries. Nevertheless, MLPF&S now
16 finds itself named as the respondent in the Defendants' FINRA Arbitration claims.
17 4. The reason Defendants have filed these claims against the wrong party
18 (MLPF&S) and in the wrong forum (FINRA) is obvious: Defendants' claims are
19 time-barred under applicable statutes of limitation and contain obvious facial
20 defects. Private securities class actions and other investor actions against ML & Co.
21 made allegations similar to Defendants' *as early as 2007*. Indeed, the Southern
22 District of New York and the Second Circuit have held that shareholders were on
23 notice for statute of limitations purposes *no later than May 2009* of such claims
24 against ML & Co.
25 5. Defendants have brought their claims in FINRA arbitration to delay
26 focus on the applicable statutes of limitations and other facial defects in their claims.
27 If Defendants' claims were to proceed before FINRA, despite their obvious defects
28 (namely, that the claims target MLPF&S for ML & Co.'s alleged conduct, are

1 untimely, and fail to state a claim), MLPF&S may not have the immediate ability to
2 seek dismissal of claims in FINRA without participating in discovery and engaging
3 in a full and unnecessarily wasteful hearing on the merits years into the arbitration.
4 6. FINRA, however, is an improper forum for Defendants' claims. A
5 claim against a FINRA member (such MLPF&S) is arbitrable before FINRA only if
6 the claim is connected to the FINRA member's business activities. But Defendants'
7 claims arise out of injuries that ML & Co.—not a FINRA member—allegedly
8 caused to its shareholders through its alleged conduct and public statements over a
9 decade ago. While Defendants allegedly held their ML & Co. stock holdings in
10 MLPF&S brokerage accounts, Defendants' claims and alleged injuries do not arise
11 out of any actions MLPF&S took as their broker. Defendants' claims, therefore, are
12 not arbitrable. Their attempt to shoehorn untimely and meritless allegations
13 targeting ML & Co.'s alleged conduct into FINRA arbitration claims against
14 MLPF&S is improper.
15 7. Under settled law, being forced to arbitrate a dispute MLPF&S has not
16 agreed to arbitrate under FINRA rules constitutes irreparable harm entitling
17 MLPF&S to an injunction from the Court.
18 8. The Court should enjoin the pending arbitrations initiated by
19 Defendants and declare that each of Defendants' claims is not subject to arbitration.
20 **THE PARTIES**
21 9. Plaintiff MLPF&S is a Delaware corporation with its principal place of
22 business in New York, New York.
23 10. Defendant Christina Billington is a citizen of Oklahoma and successor
24 trustee for the James A. Billington Trust. Billington asserts in her arbitration
25 statement of claim that the Billington Trust is maintained in Orange County,
26 California.
27 11. Defendant Steven Moreno is a citizen of California. On information
28 and belief, Moreno resides in Los Angeles, California.

12. Defendant Donald Straszheim is a citizen of California. On information and belief, Straszheim resides in Pacific Palisades, California.

13. Non-Party ML & Co. was, until 2008, a publicly traded company listed on the New York Stock Exchange under the ticker symbol "MER." ML & Co. was acquired by Bank of America Corporation ("BAC") in a merger that was consummated on January 1, 2009.[2] Prior to the merger of ML & Co. into BAC, MLPF&S was a wholly owned subsidiary of ML & Co. At all relevant times, ML & Co. and MLPF&S were separate corporate entities. ML & Co., unlike MLPF&S, was not a FINRA member. In October 2013, over four years after it was acquired, ML & Co. was merged into BAC and ceased to exist as a separate corporate entity. BAC is not a FINRA member either.

JURISDICTION AND VENUE

14. This is an action for a declaratory judgment pursuant to 28 U.S.C. § 2201 and Federal Rule of Civil Procedure 57 and for injunctive relief pursuant to Federal Rule of Civil Procedure 65(a).

15. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332 because the parties are of diverse citizenship and the amount in controversy exceeds $75,000. In their arbitration claims, each Defendant seeks an amount in damages well above $75,000: Billington seeks damages in excess of $100 million; Moreno seeks damages in excess of $3 million; and Straszheim seeks damages in excess of $4 million.

16. This Court also has subject-matter jurisdiction pursuant to 28 U.S.C. § 1331. MLPF&S's request for a declaratory judgment and an injunction presents questions of federal law because each Defendant's FINRA Arbitration statement of

[2] Upon ML & Co.'s merger with Bank of America, ML & Co. stock ceased to trade publicly, and ML & Co. shareholders received BAC common stock in exchange for their ML & Co. common stock. For ease of reference, the Complaint refers to Defendants' at-issue stock holdings both before and after the merger as "ML & Co. stock holdings."

claim includes claims under the Racketeer Influenced and Corrupt Organizations Act (RICO).

17. This Court has personal jurisdiction over Defendants. All three Defendants expressly requested that their FINRA arbitrations take place in Los Angeles, California—a request that FINRA granted. *See Fireman's Fund Ins. Co. v. Nat'l Bank of Cooperatives*, 103 F.3d 888, 894-95 (9th Cir. 1996) (participation in arbitration in district confers personal jurisdiction). Furthermore, Billington asserts in her arbitration demand that the Billington Trust is maintained in Orange County, California; and Defendants Straszheim and Moreno both reside in California.

18. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(a)(2) because a substantial part of the events giving rise to this action occurred within this judicial district, including that each of the FINRA Arbitrations that MLPF&S seeks to enjoin has been set to take place in Los Angeles at Defendants' request.

LEGAL AND FACTUAL BACKGROUND

Shareholder and Investor Actions Against ML & Co. Filed in 2007 and 2008 Anticipate Defendants' Claims By a Decade

19. Shareholder actions brought by ML & Co. shareholders against ML & Co. in 2007 and 2008 made the same allegations that Defendants rehash in their untimely FINRA claims.

20. As the Southern District of New York has explained, ML & Co. shareholders' class actions filed in 2007 and 2008 "against Merrill Lynch claim[ed] the institution had also misrepresented its own exposure to CDOs and other subprime assets," *Woori Bank v. Merrill Lynch*, 923 F. Supp. 2d 491, 497 (S.D.N.Y.), *aff'd*, 542 F. App'x 81 (2d Cir. 2013). These actions alleged that ML & Co. shareholders were injured because ML & Co.'s stock declined once the market learned about ML & Co.'s exposure to subprime mortgages and related securities. The complaints in the pre-2009 shareholder actions also alleged "systemic

deficiencies in both Merrill Lynch's underwriting disclosures and the ratings of these investment products provided by the ratings agencies" and claimed that "Merrill Lynch failed to disclose or misrepresented the disjunct between the alleged underwriting standards and the actual quality of the underlying mortgages" to shareholders. *Id.* These are core factual allegations that Defendants make in their arbitration statements of claim.

21. Indeed, the pre-2009 ML & Co. shareholder lawsuits also cover the specific details in Defendants' FINRA statements of claim—further confirming that Defendants' claims duplicate decade-old allegations. The complaints in shareholder actions initiated starting in 2007 alleged that ML & Co. failed to disclose the risks associated with ML & Co.'s exposure to various mortgage originators and securitizers such as Ownit and First Franklin, and further alleged false statements by ML & Co. executives. *See, e.g.*, *In re Merrill Lynch & Co., Inc. Securities, Derivative, & ERISA Litig.*, No. 07-cv-9633, ECF No. 43 (S.D.N.Y. May 5, 2008) (Consolidated Amended Class Action Complaint); ECF No. 109 (S.D.N.Y. Sept. 23, 2008) (Consolidated Supplemental Complaint for Violations of the Employee Retirement Income Security Act). Defendants' FINRA claims make substantially the same allegations.

22. In addition to ML & Co. shareholder actions, investors in other securities (including in residential mortgage-backed securities ("RMBS") and collateralized debt obligations ("CDOs")) that allegedly were exposed to the subprime mortgage market made the same allegations regarding ML & Co.'s alleged conduct. As the Southern District of New York explained, in 2008 and 2009, investors filed "many more lawsuits . . . against Merrill Lynch specifically alleging that Merrill Lynch made misrepresentations regarding mortgage underwriting standards thereby significantly understating the risk of various investments." *Woori*, 923 F. Supp. 2d at 496.

Courts Hold That Investors Were on Notice of Fraud and Misrepresentation Claims Against Merrill Lynch Related to Mortgage Originations and Mortgage-Related Securities No Later Than May 2009

23. Unsurprisingly, in light of these many actions filed in 2007 and 2008, the Second Circuit and Southern District of New York have held that by May 2009, investors were on notice of and had the practical ability to bring fraud claims alleging misrepresentations regarding mortgages and mortgage-securities originated or securitized by ML & Co. *Woori*, 923 F. Supp. 2d at 496 ("Between early 2007 and May 2009, problems with mortgage standards and CDO ratings were reported extensively by the media and served as the basis for multiple government investigations and individual lawsuits. … [T]hese sources . . . exposed specific facts regarding Merrill Lynch that [Plaintiff] currently employs to substantiate its fraud claims."); *Woori Bank v. Merrill Lynch*, 542 F. App'x 81, 82 (2d Cir. 2013) ("[t]he district court carefully analyzed [plaintiff's] claims and correctly concluded that the overall publicity surrounding Merrill Lynch's CDOs, the lawsuits filed against Merrill Lynch relating to the CDOs, and the government investigations into Merrill Lynch's activities were sufficient to make [the plaintiff] 'actually and specifically recognize[ ]' this claim for damages").

24. It is now some ten years after the first shareholder action was filed in 2007 against ML & Co. alleging shareholder losses arising from ML & Co.'s subprime mortgage exposure during the mortgage crisis, and some eight years after the date by which courts have definitively ruled that the limitations periods on claims against ML & Co. began to run. To say that Defendants' claims are stale is an understatement. They are petrified, and, if litigated in court, would be subject to immediate dismissal at the pleading stage.

The Billington Arbitration

25. On June 23, 2017, Billington filed a Statement of Claim in FINRA arbitration ("Initial Statement of Claim"). In the Initial Statement of Claim, Billington asserted that "Merrill Lynch" had misstated its exposure to risky

mortgages during the housing bubble, causing the value of the Billington Trust's ML & Co. stock holdings to decline once the full extent of ML & Co.'s exposure to subprime mortgages allegedly became known.

26. Billington named "Merrill Lynch, Inc." as the respondent in the Initial Statement of Claim. There is no such corporate entity. In subsequent correspondence, Billington's counsel confirmed that he had actually intended to name ML & Co. as the respondent. Moreover, on or around July 26, 2017, Billington entered into a tolling agreement relating to the claims raised in the FINRA arbitration in which Billington agreed that ML & Co. had been "incorrectly identified in the [arbitration] as Merrill Lynch, Inc.," confirming that Billington's claims targeted alleged conduct by ML & Co. The tolling agreement pertained only to claims against ML & Co., not MLPF&S. ML & Co., as noted above, is not a FINRA member.

27. The Initial Statement of Claim on behalf of Billington requested assignment to FINRA's Los Angeles office and the arbitration was assigned there.

28. On June 28, 2017, Billington's attorney followed up with a letter attaching the Initial Statement of Claim. In the June 28 letter (Ex. A), Billington's counsel alleged that James Billington, the former trustee of the Billington Trust, "was misled by Merrill Lynch, Stanley O'Neal, John Thain, and others on investor conference calls regarding the financial health of the firm. As the victim of these false statements he lost over $100 million on his MER shares." Messrs. O'Neal and Thain were former CEOs of ML & Co.—the publicly traded company— and any "investor conference calls" they would have spoken on were ML & Co. calls.

29. On September 21, 2017, Billington filed an Amended Statement of Claim ("Amended Statement of Claim") (Ex. B). The Amended Statement of Claim substituted MLPF&S, a FINRA member, as the sole respondent.

30. Although the Amended Statement of Claim names MLPF&S as respondent, its substantive allegations are virtually identical to those made in the

Initial Statement of Claim (which, as noted, Billington's counsel admitted had been directed at ML & Co.). In addition, the focus of the Amended Statement of Claim remains the activities of ML & Co and the decline of the Billington Trust's ML & Co. stock holdings as allegedly caused by ML & Co. conduct and statements. The Amended Statement of Claim again alleges that "Merrill Lynch and its top officers committed fraud upon the public, including Mr. Billington, by concealing . . . billions of dollars in fraudulent mortgages, fraudulent RMBS, and fraudulent CDOs" (Ex. B at 9) and this alleged fraud "devastated the firm and shareholders, including Mr. Billington." (Ex. B at 10). It cites statements and actions by former ML & Co. executives and employees—including ML & Co.'s former CEOs Stanley O'Neal and John Thain, and its former CFO Jeffrey Edwards—as constituting the alleged fraud. As noted above, the allegations in the Amended Statement of Claim mirror allegations in shareholder and other investor actions against ML & Co. dating back to 2007.

31. The Amended Statement of Claim asserts that as a result of ML & Co.'s alleged fraud, the Billington Trust suffered over $100 million in losses in its ML & Co. stock holdings. The Amended Statement of Claim asserts claims for fraud, breach of fiduciary duty, and RICO. It seeks compensatory and punitive damages, and treble damages under RICO.

Copycat FINRA Claims—Including Claims By Moreno and Straszheim—Subsequently Filed by Billington's Attorney

32. On information and belief, after filing Billington's Initial Statement of Claim, Billington's arbitration counsel used the filed claim to line up more potential claimants, including by making targeted solicitations to former Merrill employees who may have held ML & Co. stock.

33. Since Billington filed the Amended Statement of Claim, eighteen other claimants represented by the same attorney have filed copycat FINRA arbitration claims across the country. All of these claims allege that ML & Co. and its senior

leadership misled shareholders by failing to disclose the extent of ML & Co.'s exposure to ostensibly risky subprime mortgages, RMBS, and CDOs prior to 2008, and the claimant was injured by the decline in value of the claimant's ML & Co. stock holdings when details about ML & Co.'s risks emerged. The particular factual allegations are virtually identical to those in Billington's Amended Statement of Claim.

34. Among these 18 copycat claims, Defendant Moreno filed a Statement of Claim dated September 28, 2017 (Ex. C), and Defendant Straszheim filed a Statement of Claim dated September 22, 2017 (Ex. D). Both Straszheim and Moreno sought to initiate FINRA arbitrations in Los Angeles.

35. As with Billington, both Strazheim and Moreno assert claims for fraud, breach of fiduciary duty, and violation of RICO. Moreno seeks compensatory damages of $3 million, punitive damages, and treble damages under RICO. Straszheim seeks compensatory damages of $4 million, punitive damages, and treble damages under RICO.

Defendants' Claims Against MLPF&S Are Not Arbitrable

36. The reason Defendants have not brought their claims in court against ML & Co. is obvious. Claims by ML & Co. shareholders are long since time-barred. As described above, ML & Co. shareholders filed substantially similar claims in 2007 and 2008, and the Southern District of New York, in a decision affirmed by the Second Circuit, found that the facts underlying Defendants' claims were sufficiently well known by no later than May 2009 to put investors on notice of such claims against ML & Co. Given that Defendants' claims rehash the allegations in the shareholder complaints from 2007 and 2008, the limitations periods on Defendants' claims, if anything, began to run *before* May 2009. What's more, a review of Defendants' legal claims shows that they lack merit and would be subject to threshold dismissal if filed in court, because Defendants fail to plausibly allege fraud, breach of fiduciary duty, or violations of RICO, against anyone.

37. The reason Defendants have brought these claims against MLPF&S is also obvious. Even though MLPF&S conduct is not at issue in Defendants' claims, MLPF&S is a FINRA member. But the mere fact that MLPF&S is a FINRA member does not make Defendants' claims arbitrable.

38. A dispute with a FINRA member is arbitrable only if, among other things, the dispute "arises in connection with the business activities of the [FINRA] member." *See* FINRA Rule 12200. For a dispute to arise in connection with the business activities of the member, the asserted injury must be caused by the conduct of the FINRA member.

39. Defendants do not, and cannot, assert that they suffered any injury arising from the business activities of their broker MLPF&S. Although Defendants held their ML & Co. stock holdings in MLPF&S accounts, Defendants do not allege that MLPF&S's conduct as broker caused the decline in value of Defendants' ML & Co. holdings. Nor could they—on information and belief, Defendants' brokerage accounts were non-discretionary accounts, as to which a broker's duties to the investor are limited to diligence and competence in the execution of trade orders. *See, e.g.*, *de Kwiatkowski v. Bear, Stearns & Co., Inc.*, 306 F.3d 1293, 1302 (2d Cir. 2002); *Press v. Chem. Inv. Servs. Corp.*, 166 F.3d 529, 536 (2d Cir. 1999). Furthermore, each of the Defendants alleges that ML & Co. shares or stock options were earned over the course of employment. Unsurprisingly, then, the Statements of Claim make no suggestion that any of Defendants' injuries arise from defective execution of trade orders. MLPF&S, accordingly, is not a proper respondent for Defendants' claims and Defendants' claims are not arbitrable.

MLPF&S Will Suffer Irreparable Harm Without Injunctive Relief

40. Unless Defendants are enjoined from pursuing their claims in FINRA arbitration, MLFP&S will suffer irreparable harm as a matter of law: it will be forced to arbitrate a dispute that is not subject to arbitration, because Defendants' claims arise not from MLPF&S's activities but from non-FINRA member ML &

Co.'s activities. *See Credit Suisse Secs. (USA) LLC v. Chia*, No. 13-cv-3085 DSF (AJWx), 2013 WL 12114009, at *4 (C.D. Cal. Oct. 18, 2013) ("Here, if Plaintiffs' motion was denied, they would be forced to arbitrate a claim that is likely not subject to arbitration. Although the Ninth Circuit has not directly addressed this issue, other circuits and courts within this Circuit have consistently deemed such harm irreparable") (citing cases).

41. Furthermore, Defendants' claims in arbitration are time-barred by the applicable statutes of limitations—as explained above. Unlike in court proceedings, however, MLPF&S may not have the immediate ability to seek dismissal of claims in FINRA without participating in discovery and engaging in a full (and unnecessarily wasteful) hearing on the merits. Unless the Court grants MLPF&S the relief it seeks, MLPF&S will be forced to expend resources it cannot recover in defending itself in arbitration where it otherwise would be entitled to an early dismissal if the matter were litigated in court. For this reason, too, it will be irreparably harmed unless the FINRA Arbitrations are enjoined.

CLAIMS FOR RELIEF

COUNT 1

Declaratory Judgment

42. MLPF&S alleges each and every prior allegation of this Complaint as if set forth fully herein.

43. MLPF&S is compelled to seek relief from the Court because it is well-settled law that a court may decide whether a dispute against a FINRA member is subject to arbitration under FINRA rules, including under FINRA Rule 12200.

44. Defendants' claims are not subject to FINRA arbitration because they do not arise out of the activities of MLPF&S. Specifically, Defendants' alleged injury—the diminution in the value of their ML & Co. stock holdings—did not result from the conduct of Defendants' broker, MLPF&S. Rather, Defendants' alleged injuries were caused by the alleged activities and public statements of non-

FINRA member ML & Co. Defendants cannot bring claims seeking recovery for alleged ML & Co. conduct in FINRA arbitration proceedings against MLPF&S. *See* FINRA Rule 12200.

45. As a matter of law, unless Defendants are enjoined from pursuing their claims in FINRA Arbitrations, MLPF&S will suffer irreparable harm because it will (i) be forced to arbitrate a dispute that is not subject to arbitration under FINRA rules; and (ii) be forced to incur substantial time and expense defending itself in arbitration proceedings, or risk an adverse outcome in those proceedings, even though the claims are untimely and subject to threshold dismissal if litigated in court. Being forced to arbitrate a dispute MLPF&S has not agreed to arbitrate under FINRA rules constitutes irreparable harm as a matter of law.

46. Declaratory relief from this Court will resolve this controversy.

47. As alleged above, a real, substantial, and immediate controversy is presented regarding the rights, duties, and liabilities of the parties. Pursuant to 28 U.S.C. § 2201 *et seq.*, and Rule 57 of the Federal Rules of Civil Procedure, MLPF&S, accordingly, requests a declaratory judgment from the Court that Defendants' claims are not arbitrable and that Defendants must bring their claims, if at all, in court.

COUNT 2

Injunctive Relief

48. MLPF&S alleges each and every prior allegation of this Complaint as if set forth fully herein.

49. Defendants have asserted claims for compensatory, punitive, and treble damages in the FINRA Arbitrations. On information and belief, unless Defendants are enjoined, they will continue to pursue such claims.

50. As a matter of law, unless Defendants are enjoined from pursuing their claims in FINRA Arbitrations, MLPF&S will suffer irreparable harm because it will (i) be forced to arbitrate a dispute that is not subject to arbitration under FINRA

rules; and (ii) be forced to incur substantial time and expense defending itself in arbitration proceedings, or risk an adverse outcome in those proceedings, even though the claims are untimely and subject to threshold dismissal if litigated in court. Being forced to arbitrate a dispute MLPF&S has not agreed to arbitrate under FINRA rules constitutes irreparable harm as a matter of law.

51. The balance of equities favors an injunction.

52. The public interest would be served by enjoining Defendants from pursuing time-barred and meritless claims against MLPF&S in arbitration, because such claims are not arbitrable, and because the claims would be subject to early threshold dismissal on limitations grounds if Defendants were to bring the claims in court.

PRAYER FOR RELIEF

WHEREFORE, MLPF&S respectfully requests that this Court enter an order:

1. Declaring that (a) FINRA is not the appropriate forum for Defendants Billington, Moreno, and Straszheim to pursue their claims and (b) FINRA has no jurisdiction to adjudicate the FINRA Arbitrations;

2. Preliminarily and permanently enjoining Defendants Billington, Moreno, and Straszheim from pursuing their claims against MLPF&S in FINRA Arbitrations; and

3. Awarding MLPF&S all other relief as may be just and proper, including attorneys' fees and costs.

DATED: November 8, 2017

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