

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

RALPH S. JANVEY,

Receiver,

v.

JAMES A. ALGUIRE, et al.,

Defendants.

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No. 3:09-CV-00724-N

**DEFENDANT ROBERTO ULLOA'S MOTION TO DISMISS
RECEIVER'S SECOND AMENDED COMPLAINT AND
COMPEL ARBITRATION**

For the reasons set forth in the accompanying brief, Defendant Roberto Ulloa ("Ulloa") files this Motion to Dismiss Receiver's Second Amended Complaint Against Former Stanford Employees (the "Receiver's Complaint") and Compel Arbitration, and would respectfully show the following:

1. The claims asserted by Ralph S. Janvey's (the "Receiver") against Ulloa are subject to compulsory arbitration and should therefore be dismissed or stayed. Specifically, as part of his employment with Stanford Financial Group ("SFG"), Ulloa was required to execute a standard Form U-4 Uniform Application for Securities Industry Registration or Transfer ("Form U-4") that was submitted to the Financial Industry Regulatory Authority ("FINRA"). See Declaration of Roberto Ulloa, ¶ 4. The Form U-4 expressly requires that any dispute, claim, or business controversy that arises between Ulloa and his employer, SFG, be arbitrated in accordance with the FINRA rules of arbitration. *Id.*

2. The Receiver's claims of fraudulent transfer and unjust enrichment related to Ulloa compensation as financial advisor of SFG plainly fall within Form U-4's broad arbitration provision and FINRA rules of arbitration. Courts have routinely enforced the arbitration provision contained in Form U-4s. *See, e.g., Gilmer v. Interstate/Johnson Lane Corp.*, 500 U.S. 20, 111 S. Ct. 1647, 114 L. Ed. 2d 26 (1991); *Perry v. Thomas*, 482 U.S. 483, 107 S. Ct. 2520, 96 L. Ed. 2d 426 (1987); *Mouton v. Metro Life Ins. Co.*, 147 F.3d 453, 456 (5th Cir. 1998); *Williams v. Cigna Fin. Advisors, Inc.*, 56 F.3d 656, 658-59 (5th Cir. 1995); *see also First Union Sec., Inc.*, 315 F.3d 619, 627 (6th Cir, 2003) (holding that receiver was bound by arbitration agreement). Accordingly, Ulloa requests that the Receiver's claims be dismissed or stayed and that the parties be compelled to arbitration.

II. REQUEST FOR RELIEF

3. Ulloa has conclusively established that all of the Receiver's claims in this action are subject to binding arbitration, which expressly covers all of the Receiver's claims. In light of this evidence and the controlling case law set forth herein, Ulloa respectfully prays that the Court issue an order requiring the Receiver to pursue his claims in accordance with the Form U-4 arbitration agreement and applicable FINRA arbitration rules and dismiss or stay this action, in its entirety.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing has been served on the 15th day of January, 2010, in accordance with Federal Rule of Civil Procedure 5(b)(2)(E) and 5(b)(3) via the notice of electronic filing that is automatically generated by ECF, or in some other authorized manner for those counsel or parties, if any, who are not authorized to receive electronic Notices of Electronic Filing.

/s/ Jeff Ansley

Jeffrey J. Ansley