

**Award**  
**FINRA Dispute Resolution Services**

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In the Matter of the Arbitration Between:

Claimants

Fideicomiso Zoraida Cruz Torres  
Zoraida Cruz Torres, Individually and as  
Beneficiary and Protector of the Fideicomiso  
Zoraida Cruz Torres

Case Number: 21-00598

vs.

Respondents

Popular Securities, LLC  
Banco Popular de Puerto Rico

Hearing Site: San Juan, Puerto Rico

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Awards are rendered by independent arbitrators who are chosen by the parties to issue final, binding decisions. FINRA makes available an arbitration forum—pursuant to rules approved by the SEC—but has no part in deciding the award.

Nature of the Dispute: Customers vs. Member and Non-Member

This case was decided by an all-public panel.

**REPRESENTATION OF PARTIES**

For Claimants Fideicomiso Zoraida Cruz Torres (“Fideicomiso”) and Zoraida Cruz Torres, Individually and as Beneficiary and Protector of the Fideicomiso Zoraida Cruz Torres (“Cruz Torres”): Luis E. Minana, Esq., EMPower Law LLC, San Juan, Puerto Rico.

For Respondent Popular Securities, LLC: Maria T. Alvarez-Santos, Esq., Popular Securities, San Juan, Puerto Rico.

Respondent Banco Popular de Puerto Rico did not enter an appearance in this matter.

**CASE INFORMATION**

Statement of Claim filed on or about: March 4, 2021.

Statement of Claim with Amended Table of Contents filed on or about: September 15, 2021.

Fideicomiso Zoraida Cruz Torres signed the Submission Agreement: February 11, 2021.

Zoraida Cruz Torres, Individually and as Beneficiary and Protector of the Fideicomiso Zoraida Cruz Torres signed the Submission Agreement: February 11, 2021.

Statement of Answer filed by Respondent Popular Securities, LLC (“Popular”) on or about: April 26, 2021.

Popular Securities, LLC signed the Submission Agreement: March 25, 2021.

Banco Popular de Puerto Rico did not file a Statement of Answer or sign the Submission Agreement.

### **CASE SUMMARY**

In the Statement of Claim, Claimants asserted the following causes of action: fault, deceit, recklessness and negligence in the execution of duties owed under contract; and violation of the Federal Securities Exchange Act violations. The causes of action relate to Claimants' investments in Puerto Rico closed-end bond funds and bonds ("PR Securities"), including the use of lines of credit as collateral for the purchase of additional PR Securities.

Unless specifically admitted in the Statement of Answer, Respondent Popular denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

### **RELIEF REQUESTED**

In the Statement of Claim, Claimants requested: no less than \$2,500,000.00 to Claimant Fideicomiso for its economic losses; no less than \$2,800,000.00 to Claimant Cruz Torres for her economic losses; monies paid by Claimants for the purchase of the voided PR Securities, lines of credit and margin loans, transaction fees, commissions and other charges related to the purchase and sale of the PR Securities, in an unspecified amount to be determined at the hearing; attorneys' fees in an unspecified amount to be determined by the Panel, plus the reimbursement of arbitration and litigation costs and expenses to be determined at the hearing; legal interest accrued over the forestated monetary amounts since the filing of this Statement of Claim in an unspecified amount to be determined at the hearing; punitive and exemplary damages for an amount equal to the compensatory damages awarded herein; and any such other and further relief deemed just and appropriate by the Panel, including rescission.

In the Statement of Answer, Respondent Popular requested that the Panel reject Claimants' Statement of Claim in its entirety and award Respondent Popular its reasonable attorneys' fees and expenses in defending this claim.

### **OTHER ISSUES CONSIDERED AND DECIDED**

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

Respondent Banco Popular de Puerto Rico is not a member or associated person of FINRA and did not voluntarily submit to arbitration. Therefore, the Panel made no determination with respect to the claims against Respondent Banco Popular de Puerto Rico.

On July 12, 2021, Respondent Popular filed a Motion to Dismiss pursuant to Rule 12206 of the Code of Arbitration Procedure ("Code"). On August 23, 2021, Claimant filed a response opposing the Motion to Dismiss. On September 13, 2021, Respondent Popular filed a reply to Claimants' response. On January 15, 2022, the Panel heard oral arguments and determined to grant the Motion on the following grounds:

Claimants filed their Statement of Claim on March 4, 2021. There were no purchases of PR Securities in Claimants' account at Respondent Popular on or after March 4, 2015. All claims stemming from any purchases of PR Securities on or before March 4, 2015 are ineligible for arbitration. The collapse in the market of PR Securities occurred on or around August and September of 2013. Claimants would have been aware of this market collapse no later than when they received their October 2013 account statement from Respondent Popular. The evidence in the oral arguments, pleadings, motions, opposition, and reply demonstrate that the last occurrence or event was more than six (6) years prior to the filing of Claimants' Statement of Claim.

Respondent Popular's Motion to Dismiss pursuant to Rule 12206 of the Code is granted by the Panel without prejudice to any right Claimant has to file in court; Claimants are not prohibited from pursuing their claims in court pursuant to Rule 12206(b) of the Code.

The Panel has provided an explanation of the decision in this Award. The explanation is for the information of the parties only and is not precedential in nature.

The Award in this matter may be executed in counterpart copies.

### **AWARD**

After considering the pleadings, the testimony and evidence presented at the hearing, and any post-hearing submissions, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimants' claims are dismissed in their entirety pursuant to Rule 12206 of the Code.
2. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages, exemplary damages, and attorneys' fees, are dismissed.

### **FEES**

Pursuant to the Code, the following fees are assessed:

#### **Filing Fees**

FINRA Dispute Resolution Services assessed a filing fee\* for each claim:

Initial Claim Filing Fee = \$ 2,250.00

*\*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 is assessed the following:

Member Surcharge = \$ 4,025.00  
Member Process Fee = \$ 7,000.00

**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), which lasts four (4) hours or less. Fees associated with these proceedings are:

Three pre-hearing sessions with the Panel @ \$1,500.00/session	= \$ 4,500.00
Pre-Hearing Conferences: June 28, 2021	1 session
December 2, 2021	1 session
January 15, 2022	1 session

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Total Hearing Session Fees	= \$ 4,500.00
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The Panel has assessed \$1,500.00 of the hearing session fees jointly and severally to Claimants.

The Panel has assessed \$3,000.00 of the hearing session fees to Respondent.

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

**ARBITRATION PANEL**

Robert G. Falbisaner	-	Public Arbitrator, Presiding Chairperson
Sergio A. Dominguez	-	Public Arbitrator
Jose Francisco Cartaya Morales, Sr.	-	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**

***Robert G. Falbisaner***

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Robert G. Falbisaner  
Public Arbitrator, Presiding Chairperson

***02/04/2022***

\_\_\_\_\_  
Signature Date

***Sergio A. Dominguez***

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Sergio A. Dominguez  
Public Arbitrator

***02/04/2022***

\_\_\_\_\_  
Signature Date

***Jose Francisco Cartaya Morales, Sr.***

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Jose Francisco Cartaya Morales, Sr.  
Public Arbitrator

***02/04/2022***

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Signature Date

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February 07, 2022

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