

Bond Case Briefs

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ARBITRATION - TENNESSEE

Webb v. First Tennessee Brokerage, Inc.

Court of Appeals of Tennessee - April 23, 2013 - Slip Copy - 2013 WL 1737202

Purchaser of Lehman Brothers bonds not required to arbitrate dispute with broker; ensure that brokerage firm clients utilize enforceable arbitration agreements.

Account holder at First Tennessee Bank ("FTB") was induced by a financial advisor of FTB's brokerage subsidiary ("FTCB") to invest her entire savings in Lehman Brothers bonds. We all know how that movie ended.

Account holder sued and FTCB moved to stay the proceedings and compel arbitration.

The court of appeals affirmed the trial court's ruling that the account holder was not obligated to arbitrate for the following reasons:

- Unlike other brokerage firms, the agreement between investor and FTCB did not require arbitration in disputes between a customer and an investment advisor employed by the brokerage;
- The agreement was not arbitrable under Tennessee law as an unconscionable contract of adhesion;
- Claims of fraud in the inducement are not arbitrable; and
- The arbitration agreement relied upon by FTCB appears to have been inserted into the file at some later date and thus the plaintiff had not consented to arbitration.