

Bond Case Briefs

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STATUTE OF LIMITATIONS - MASSACHUSETTS

Genovesi v. Nelson

Appeals Court of Massachusetts, Norfolk - March 5, 2014 - N.E.3d - 85 Mass.App.Ct. 43

Investor brought action against financial advisors, alleging claims of fraud, fraudulent inducement, negligent misrepresentation, breach of fiduciary duty, deceptive business practices, and violation of Massachusetts Uniform Securities Act (MUSA), arising from advisors' allegedly misleading investor into believing that he had placed \$1 million in funds into a low-risk investment, with resulting loss of investor's entire investment. The Superior Court Department dismissed the complaint on limitations grounds, and investor appealed.

The Appeals Court held that statutes of limitations were tolled until time that investor learned he had lost his investment.

Three- and four-year statutes of limitations were tolled, pursuant to discovery rule, on claims against financial advisors by investor alleging fraud, fraudulent inducement, negligent misrepresentation, breach of fiduciary duty, deceptive business practices, and violation of MUSA, from time that investor placed \$1 million in funds into an investment based on advisors' alleged misrepresentations that investment was low-risk until time that investor learned he had lost his entire investment.

Investor first knew that he had been misled in when the investment fund announced that it would not pay interest or return any principal for investor's shares.