

Bond Case Briefs

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AUCTION RATE SECURITIES - NEW YORK

Goldman, Sachs & Co. v. Golden Empire Schools Financing Authority

United States Court of Appeals, Second Circuit. August 21, 2014--- F.3d ----2014 WL 4099289

Underwriters/broker-dealers of auction rate securities (ARS) issued by public financing authorities brought actions for declaratory and injunctive relief against issuers, seeking to enjoin Financial Industry Regulatory Authority (FINRA) arbitration of disputes involving the securities. The District Court granted preliminary injunctions. Issuers appealed.

The Court of Appeals held that forum selection clause of broker-dealer agreements, requiring “all actions and proceedings” related to the transactions between the parties to be brought in court, superseded FINRA’s mandatory arbitration rule.

Forum selection clause was all-inclusive and mandatory, and broker-dealer agreements contained merger clauses.