



DONALD D. MCBRIDE

PARTNER

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For nearly two decades, Don McBride has focused his practice on representing broker-dealers, registered investment advisers and individual investment professionals in a wide array of litigation and regulatory matters throughout the United States. He has extensive experience defending customer disputes in federal and state courts, as well as in arbitrations before the Financial Industry Regulatory Authority (FINRA). Don also represents clients in regulatory investigations and enforcement proceedings before FINRA, the U.S. Securities and Exchange Commission and state securities regulators.

Don's goal is to provide practical advice to his clients, knowing that they operate in a highly regulated industry, and guide them to successful outcomes. At times that involves negotiating fair and appropriate resolutions, taking into account the total cost of defending a matter, collateral consequences or reportable events, and how litigating may affect a client's business. Other times he has fought for clients before juries in state court, or tried matters to final hearing before FINRA arbitration panels. He has also argued before the Missouri Court of Appeals Eastern and Western Districts, and the Florida District Courts of Appeal.

Don also serves as an arbitrator, a role that provides insight on how panels decide discovery disputes, weigh evidence and make their final decisions.

Prior to joining Armstrong Teasdale, Don was the Co-Chair of the Financial Services Industry Group of his previous law firm, and prior to that he worked in the mutual funds department of a nationally known brokerage firm in St. Louis, where he gained first-hand knowledge of the securities industry.

EDUCATION

- Saint Louis University School of Law (J.D., *cum laude*, 2006)
 - Concentration in Civil Litigation
- Saint Louis University (B.S.B.A., *summa cum laude*, 2003)
 - Economics

PROFESSIONAL ACTIVITIES

- Securities Industry and Financial Markets Association (SIFMA), Compliance and Legal Division
- Bar Association of Metropolitan St. Louis

SERVICES AND INDUSTRIES

Alternative Dispute Resolution
Complex Commercial
Litigation
Litigation
Securities Regulation and
Litigation
Financial Services and Banking

ADMISSIONS

Missouri
Illinois
U.S. District Court, Eastern
District of Missouri

- The Missouri Bar
- Leadership Council on Legal Diversity Fellow (2018)

CHARITABLE AND CIVIC INVOLVEMENT

- HavenHouse St. Louis, Board of Directors (2009-2015)

ACCOLADES

- Up & Coming Award, Missouri Lawyers Media (2020)
- Benchmark Litigation, Future Star (2021-2022); 40 & Under Hot List (2018-2021)

EXPERIENCE

FINRA Regulatory Investigation – Alternative Mutual Fund

Represented broker-dealer in two-year FINRA investigation involving due diligence conducted on alternative mutual fund that utilized derivatives in its strategy.

FINRA Arbitration Involving Wash Sale Rule

Defended discount broker-dealer against fraud and negligence claims brought by day trader, and involving application of the IRS Wash Sale Rule.

FINRA Regulatory Investigation - Unapproved Outside Business Activities

Represented individual in investigation and settlement of matter alleging that client engaged in unapproved outside business activities.

FINRA Regulatory Investigation –Failure to Supervise

Represented individual in matter alleging failure to supervise trading in leveraged/inverse mutual funds by broker-dealer’s Chief Executive Officer and Chief Compliance Officer. Negotiated settlement with FINRA and represented individual in MC-400 process during statutory disqualification.

Business Owner Dispute Jury Trial and Appeal

Brought claims in St. Louis County, Missouri Circuit Court on behalf of individuals that funded business and were later expelled from it without a return of their funds. This included a weeklong jury trial, and briefing appeal and oral argument before the Missouri Court of Appeals. *Aughenbaugh v. Williams*, 569 S.W.3d 514 (Mo. Ct. App. 2018).

Defended Registered Investment Adviser, Others Against Claims by Former Employer

Defended Registered Investment Adviser and founders in Miami-Dade County, Florida Circuit Court against claims by their former employer for tortious interference, breach of contract, breach of fiduciary duty, violation of state trade secrets law, and conspiracy claims. This included briefing appeal and oral argument before the Florida Court of Appeals. *Phelan v. Lawhon*, 229 So. 3d 853 (Fla. Dist. Ct. App. 2017).

Defense Against Suitability Claims in FINRA Arbitration

Defended broker-dealer in FINRA arbitration against suitability claims relating to Indiana customer’s purchase of three variable annuities.

Defended Class Action Claims of Churning, Unauthorized Trading

Defended broker-dealer in U.S. District Court for the Eastern District of Missouri against

class action alleging claims of churning, unauthorized trading, and that firm did not adequately communicate the nature of an employee's termination from another firm.

Multi-Jurisdiction Interpleader Against Competing Claims by Former Spouses

Customer filed state court claims in Indiana based on restriction placed on IRA, and at the same time customer's ex-spouse filed state court claims in Florida seeking distribution of same IRA funds based on divorce decree. Defended claims by filing federal interpleader in Northern District of Indiana Federal Court that enjoined both husband and wife from proceeding with their respective state court actions pursuant to 28 U.S.C. §2361.

Illinois Regulatory Investigation – Due Diligence on Sub-adviser

Represented Registered Investment Adviser in investigation by Illinois Securities Department involving due diligence conducted on sub-adviser that utilized alternative investment strategies.

FINRA Regulatory Investigation – Suitability and Marking Order Tickets

Represented broker-dealer and registered representative in matter involving investigation into suitability of trades and marking of order tickets.

Interpleader Against Competing Successor Trustee Claims

Filed interpleader in Eastern District of Missouri Federal Court on behalf of broker-dealer to protect it against adverse claims brought by competing successor trustees to assets held in trust account.

FINRA Arbitration Involving Lehman Brothers Bonds

Defended broker-dealer against suitability claims arising from an Iowa customer's purchase of Lehman Brothers bonds and Countrywide Financial bonds.

FINRA Arbitration Involving Pattern Day Trader

Defended St. Louis discount broker-dealer against claims that customer suffered damages from lost trading opportunities after improperly being restricted and designated a "Pattern Day Trader" under FINRA Rule 4210.

Defense Against Fraudulent Transfer, Successor Liability Claims

Defended Registered Investment Adviser in St. Louis County, Missouri Circuit Court against fraudulent transfer and successor liability claims brought by creditor of separate, unaffiliated RIA that accounts had transferred from.

Defended Broker-Dealer Against IRA Beneficiary Designation Claims

Defended claims against broker-dealer in St. Louis County, Missouri, Circuit Court alleging that it failed to maintain copies of effective IRA beneficiary designations signed by deceased customer.

Defense Against Claims Regarding Frozen Trust Assets

Defended broker-dealer in St. Louis County, Missouri, Circuit Court against claims that it improperly froze assets in trust account after trustee's death and where successor trustee refused to sign account agreement and trust certification forms.

Defense Regarding Claims of Improper Guardianship Account Withdrawals

Defended broker-dealer and its registered representative in Lawrenceville County, Illinois Circuit Court against claims that it improperly allowed a customer to make withdrawals from guardianship account established for the customer's daughter.

FINRA Arbitration Over Unsolicited Stock Purchases

Defended St. Louis discount broker-dealer in FINRA arbitration against claims by North

Carolina customer based on unsolicited purchases in Biozoom stock.

Defended Broker-Dealer Against Claims of Improper Deposit, Disbursement

Defended a broker-dealer in Cumberland County, Illinois Circuit Court against claims that its former registered representative improperly allowed deposit of third-party check, with alleged forged or unauthorized indorsement, and then subsequently disbursed funds to check presenter. *Palmer v. Edward D. Jones & Co., LP*, 2014 IL App (4th) 130735-U, 2014 Ill. App. Unpub. LEXIS 2813 (Dec. 16, 2014).

Interpleader Against Adverse Claims to IRA

Filed interpleader in Eastern District of Missouri Federal Court on behalf of broker-dealer to protect it against adverse claims brought by the deceased customer's father, who was beneficiary of an IRA, and the customer's surviving ex-spouse, who claimed an interest in the IRA pursuant to a divorce decree.

Defended Electronic Trading Platform Against IRA Beneficiary Claims

Defended St. Louis discount broker-dealer in Northern District of Illinois Federal Court against claims brought by IRA beneficiaries after IRA assets were restricted in light of deceased customer's surviving spouse making claim to those assets.

Defended Broker-Dealer, Registered Representative Against Fraudulent Transfer Claim

Defended broker-dealer and its registered representative in St. Louis County, Missouri Circuit Court against claims that it conspired with a customer to make fraudulent transfers to the customer's relatives to avoid the plaintiff's ability to collect a substantial judgment against the customer.

Defended Against Mismanagement of Assets, Improper Disbursement Claims

Defended broker-dealer and registered representative in Oklahoma County, Oklahoma District Court against claims that representative mismanaged assets and made improper disbursements from a trust account he managed and established for his daughter.

Defended Broker-Dealer Against Claims Involving Client's Diminished Capacity

Defended broker-dealer in St. Louis County, Missouri Circuit Court against claims brought by surviving husband claiming that firm improperly accepted instructions from deceased wife, while she had diminished capacity, to transfer funds to their children and change the registration on an account.

Defended Broker-Dealer Against Failure to Follow Client Instructions

Defended broker-dealer against claims in St. Louis County, Missouri Circuit Court alleging that registered representative opened account as a joint account with right of survivorship rather than single account with TOD designations as directed by 98-year-old customer.

Compelled Arbitration in Case Over Unauthorized Withdrawals from Customer Account

In Vigo County, Indiana Superior Court, compelled arbitration and defended broker-dealer against claims that its registered representative issued checks to himself and made other unauthorized withdrawals from a customer's account.

FINRA Arbitration Involving Suitability Claims

Defended broker-dealer and its registered representative against suitability claims relating to a Missouri customer's purchases of Putnam mutual funds, municipal bonds and an exchanged variable annuity.

Defended Against Suitability Claims in FINRA Arbitration

Defended broker-dealer against suitability claims arising from an Oregon customer's purchase of Sun Microsystems and WorldCom.

FINRA Arbitration Involving Variable Annuity Suitability Claims

Defended broker-dealer against suitability claims arising from an Illinois customer's purchase of a variable annuity.

NASD Arbitration Involving Suitability Claims

Defended broker-dealer and its registered representative against suitability claims relating to an Indiana customer's purchases of Putnam mutual funds, technology stocks and Enron.

NASD Arbitration on Suitability of Variable Annuity Purchase

Defended broker-dealer, its registered representative, and insurance company against suitability claims arising from a Florida customer's purchase of a variable annuity.

NASD Arbitration Over Previously Surrendered Stock Certificates

Defended broker-dealer and its registered representative against claims by Wisconsin customer seeking value of General Dynamics Corporation stock certificates that were previously surrendered, and subsequently retained, by the stock's transfer agent.

NASD Arbitration Involving Inappropriate Funds Transfers

Defended broker-dealer and its registered representative against claims by Texas customer alleging that firm inappropriately transferred funds from a joint account he held with his mother and brother, to a single account held only by his mother.

NYSE Arbitration for Suitability Claims Over Variable Annuity

Defended broker-dealer and its registered representative against suitability claims arising from a customer's purchase of a variable annuity.

NYSE Arbitration Involving Client Portfolio Diversification

Defended broker-dealer and its registered representative against suitability claims arising from customer's concentrated position in Level Three stock and refusal to follow recommendation to sell that position and diversify the portfolio.

THOUGHT LEADERSHIP

April 26, 2023

Changes Coming to FINRA's Expungement Process

Client Advisory

August 4, 2021

Viewing a Retirement Plan Rollover Case Through the Prism of Regulation Best Interest

Client Advisory

July 7, 2020

Now That Regulation BI is in Effect, a Reminder of FINRA's 2020 Exam Priorities

Client Advisory

June 23, 2020

Supreme Court Holds SEC May Obtain Disgorgement but Places Limitations on the

Remedy

Client Advisory

January 2020

FINRA 2020 Exam Priorities Covering Sales Practices

Client Advisory

June 13, 2014

Supreme Court Holds Inherited IRAs are Not Exempt in Bankruptcy

Client Advisory