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Dow Jones Newswires

Dow Jones News Service

June 16, 2011 Thursday 8:57 PM GMT

LENGTH: 555 words

HEADLINE: Merrill Loses Bonus Case, Must Pay Broker \$1.55 Mln

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BODY:

NEW YORK (Dow Jones)--An arbitration panel ordered Bank of America Corp.'s (BAC) Merrill Lynch to pay \$1.55 million to a former broker who said the firm harassed his wife as it sought repayment of bonus money.

The Financial Industry Regulatory Authority arbitration panel in San Juan, Puerto Rico, also ordered Merrill Lynch to expunge a negative characterization of the broker's departure from a regulatory filing.

Merrill was first to file a claim in the case, alleging that Angel E. Aquino, who worked in its office in Guaynabo, Puerto Rico, from 2006 to 2009, owed the firm \$970,000 in bonus money. The three-person arbitration panel denied that claim, but it found Merrill liable for damages alleged in Aquino's counter-claim.

Aquino accused Merrill Lynch of terminating him without cause and breaching his contract, among other things, according to the Finra ruling, which was dated Tuesday.

Aquino filed motions for two protective orders during the arbitration process, according to the ruling. The first one, related to discovery problems, alleged that Merrill Lynch had "no conceivable ongoing right" to "continue to delve into [Aquino's] professional life." The panel denied that motion.

A second motion alleged that Aquino's wife "received an unwarranted call" from Merrill Lynch's representatives and that breach of the Aquino's "private life and sanctuary was unjustifiable," according to the ruling. Merrill Lynch denied during the case that its employees or lawyers' employees made such a call, according to the ruling, and said that Aquino's wife was identified as a witness in the case. The panel, however, granted the motion.

Aquino asked for, and won, the panel's recommendation to expungement of alleged defamatory language that Merrill Lynch included on his Form U5, a document that brokerages file with regulators when an adviser leaves the

firm.

Aquino, while successful in his case, won far less than the \$165 million he originally sought. That initial request included \$100 million for punitive damages and five times his average yearly earnings in the amount of \$7.5 million. Aquino is presently registered with a Miami office of Morgan Stanley Smith Barney, Morgan Stanley's (MS) brokerage joint venture, according to regulatory filings.

The panel didn't include a reason for its rulings, as is typical of most arbitration awards. It required Merrill Lynch to pay the full \$30,000 in hearing fees, a cost that's typically split between the parties.

A Merrill Lynch spokesman declined to comment. Aquino declined to immediately comment. His lawyer didn't immediately return calls requesting comment.

Raymond L. Moss, an Atlanta-based securities lawyer, says he's observed only a small percentage of cases in which brokerages have lost their claims against brokers for bonus money. Those outcomes tend to occur in situations where the brokerage makes promises during the recruitment process that it doesn't carry out, interferes with the departing broker's business, or interferes with a broker's smooth transition to another firm, he says.

It's unknown from the ruling whether any of those circumstances occurred in Aquino's case, but the ruling suggests a contentious end to the relationship between him and Merrill.

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NOTES:

PUBLISHER: Dow Jones & Company, Inc.

LOAD-DATE: June 17, 2011