

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

D. Garrison Hill, Circuit Court Judge

Case No. 2013-000651

RECEIVED

OCT 23 2014

S.C. Supreme Court

DAVID W. KELLER,

Respondent,

v.

ING FINANCIAL PARTNERS, INC., WILLIAM C. JOHNSON,
DIVERSIFIED BUSINESS CONCEPTS, INC. and
JACKSON NATIONAL LIFE INSURANCE COMPANY,

Defendants,

Of Whom ING FINANCIAL PARTNERS, INC.,
WILLIAM C. JOHNSON and DIVERSIFIED BUSINESS
CONCEPTS, INC., are,

Petitioners.

RETURN IN SUPPORT OF MOTION FOR LEAVE TO FILE AMICUS CURIAE
BRIEF

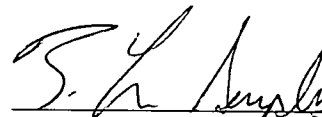
Ashley B. Abel, Esq.
T. Chase Samples, Esq.
Jackson Lewis P.C.
15 South Main Street, Suite 700
Greenville, SC 29601
(864) 232-7000
Attorneys for Petitioners

Pursuant to Rules 213 and 240 SCACR, Petitioners submit this Return in support of the Motion for Leave to File an Amicus Curiae Brief filed by the Financial Industry Regulatory Authority, Inc. ("FINRA"). Because FINRA is uniquely positioned to address one of the primary issues in this appeal, Petitioners consent to FINRA's Motion.¹

As the Statement of the Issues on Appeal submitted by both sides of this dispute make clear, one of the central issues involved in the appeal is whether there are any material differences, for purposes of arbitration, between FINRA and its predecessor, the National Association of Securities Dealers ("NASD"). Petitioners argued that the two entities are not different and that an arbitration agreement that refers to NASD is enforceable before FINRA. (Pet'rs' Br. at 10-15.) Respondent, on the other hand, argued that "FINRA is not the same as NASD," and that, as a result, the Parties' arbitration agreement is unenforceable. (Respt's Br. at 13-16.) There is no entity better positioned to address this central issue than FINRA itself. Accordingly, Petitioners consent to FINRA's Motion and respectfully request that FINRA's Motion be granted.

Respectfully submitted,

October 22, 2014



Ashley B. Abel, Esq.
T. Chase Samples, Esq.
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Greenville, SC 29601
(864) 232-7000
Attorneys for Petitioners

¹ Prior to filing this Return, counsel for Petitioners contacted counsel for Respondent and proposed that the Parties submit a joint stipulation agreeing not to oppose FINRA's Motion, but counsel for Respondent indicated that Respondent intended to oppose the Motion.

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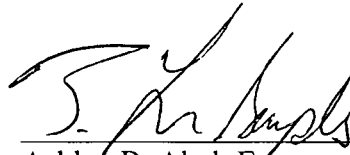
PROOF OF SERVICE

I certify that I have served Petitioner's Return in Support of FINRA's Motion for Leave to File an Amicus Curiae Brief this 22nd day of October 2014, on counsel for Keller, counsel for Defendant Jackson National Life Insurance Company, and counsel for FINRA by depositing the same in the United States Mail, first class postage prepaid, addressed as follows:

H. Donald Sellers, Esq.
Haynsworth Sinkler Boyd, P.A.
P.O. Box 2048
Greenville, SC 29602
Counsel for Respondent

Charles F. Turner, Jr., Esq.
Wilson, Jones, Carter & Baxley, P.A.
872 S. Pleasantburg Drive
Greenville, SC 29607
*Counsel for Jackson National Life Insurance
Company*

Alice W. Parham Casey, Esq.
Wyche, P.A.
P.O. Box 12247
Columbia, SC 29211
Counsel for FINRA

A handwritten signature in black ink, appearing to read "Ashley B. Abel", written over a horizontal line.

Ashley B. Abel, Esq.
T. Chase Samples, Esq.
Jackson Lewis P.C.
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Attorneys for Petitioners

Dated this 22nd day of October 2014.

jackson lewis

Attorney at Law

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MY DIRECT DIAL IS: (864) 232-7000

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VIA FEDERAL EXPRESS

S.C. Supreme Court

The Honorable Daniel E. Shearouse
Clerk of Court
Supreme Court of South Carolina
Supreme Court Building
1231 Gervais Street
Columbia, SC 29201

Re: David W. Keller, Respondent v. ING Financial Partners, Inc.,
William C. Johnson, and Diversified Business Concepts, Inc.,
Appellants; Case No. 2013-000651


Dear Mr. Shearouse:

Enclosed for filing please find an original and seven copies of the *Return in Support of Motion for Leave to File Amicus Curiae Brief*. Please return a filed copy to me. I have enclosed a self-addressed, stamped envelope.

If you require anything further, please let us know.

Sincerely,

JACKSON LEWIS P.C.


T. Chase Samples

TCS/msh
Enclosures

cc: Alice W. Parham Casey, Esq.
H. Donald Sellers, Esq.
Charles F. Turner, Jr., Esq.