

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
Miami Division

Case No. 06-21748 CIV-MARTINEZ/BANDSTRA

MARK J. GAINOR and ELYSE
GAINOR,

Plaintiffs,

v.

SIDLEY AUSTIN LLP, et al.,

Defendants.

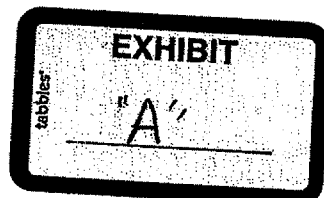
DEFENDANT ARTHUR ANDERSEN LLP'S RULE 26 INITIAL DISCLOSURES

Defendant Arthur Andersen LLP ("Andersen"), by its undersigned counsel and pursuant to Rule 26(a)(1) of the Federal Rules of Civil Procedure, hereby submits its initial disclosures.¹

Andersen's disclosures are based on information reasonably available to it as of this date. By making these disclosures, Andersen shall not be deemed to admit any fact in dispute or waive any rights or defenses Andersen has or may assert with respect to any claim, including objections based on any applicable privilege. Nor should these disclosures be deemed to suggest that Andersen agrees any further discovery is warranted or available prior to a ruling on Andersen's initial and dispositive motion.² Further, Andersen does not purport to identify every document, tangible thing, or witness possibly relevant to this lawsuit, nor does Andersen waive any objections it may have to the production of any identified document or tangible thing. Rather,

¹ Counsel for Plaintiffs has agreed that Defendants Michael Marx, a former Andersen employee, and P. Anthony Nissley, a former Andersen partner, need not submit separate disclosure statements pending rulings on their Motions to Dismiss for Lack of Personal Jurisdiction.

² Andersen will shortly be filing a Motion to Dismiss because each of the claims in the Amended Complaint against Andersen is barred by the applicable statute of limitations.



Andersen's investigation is ongoing and Andersen reserves the right to supplement, amend, or modify these disclosures as new information becomes available.

All of the disclosures set forth below are made subject to the above objections and qualifications.

A. WITNESSES

At this time, Andersen is not aware of any individuals other than those already identified and listed in Plaintiffs' Initial Disclosures whom Andersen believes are likely to have discoverable information that Andersen may use to support its claims or defenses, unless solely for impeachment. All contact with individuals listed as affiliated with Andersen in Plaintiffs' Initial Disclosures or otherwise known to have been affiliated with Andersen at the time that Plaintiffs implemented and/or reported the results of their 1999 investment strategy should be made only through undersigned counsel.

Andersen reserves the right to call additional witnesses after the issues are further developed for trial and reserves the right to call rebuttal witnesses depending on the evidence and testimony presented by Plaintiffs.

These disclosures do not include expert witnesses or witnesses that may be necessary to authenticate documents or summarize voluminous evidence.

B. DOCUMENTS

To the best of Andersen's knowledge, Plaintiffs' counsel has already acquired during its investigation and pursuit of this action several thousand documents, data compilations, and tangible things relating to Plaintiffs' 1999 investment strategy, including documents acquired from Andersen and its former partners or employees. Andersen is in the process of determining what, if any, additional documents, data compilations, and tangible things it may have in its

possession, custody or control relating to Plaintiffs' motivation, analysis, implementation, and reporting of their 1999 investment strategy that Andersen may use to support its claims or defenses, other than solely for impeachment.

C. DAMAGES

Andersen currently does not intend to claim any damages beyond attorneys' fees, costs, and expenses incurred in defending this action.

D. INSURANCE POLICY

It does not currently appear that any insurance entity would be liable to satisfy part or all of any judgment entered against Andersen in this action. Andersen may supplement this disclosure as new information is discovered.

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Counsel for Arthur Andersen LLP

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic mail and first class U.S. Mail this June 5, 2007 to:

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UNITED STATES DISTRICT COURT
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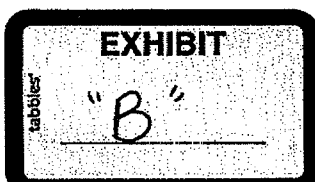
SIDLEY AUSTIN LLP, a Delaware limited liability partnership, f/k/a SIDLEY AUSTIN BROWN & WOOD, f/k/a BROWN & WOOD, R.J. RUBLE, an individual, ARTHUR ANDERSEN, LLP an Illinois limited liability partnership, MICHAEL S. MARX, an individual, P. ANTHONY NISSLEY, an individual, MERRILL LYNCH & CO., INC., a Delaware corporation, and MARK C. KLOPFENSTEIN, an individual,

Defendants.

**DEFENDANTS MERRILL LYNCH, PIERCE, FENNER & SMITH INC.
AND MERRILL LYNCH PRIVATE FINANCE LLC'S RULE 26 DISCLOSURES**

Pursuant to Rule 26(a)(1)(A)-(D) of the Federal Rules of Civil Procedure, Defendants Merrill Lynch, Pierce, Fenner & Smith Inc. ("MLPFS") and Merrill Lynch Private Finance LLC ("MLPF") make the following disclosures based upon information reasonably available as of June 7, 2007 (by subparagraph category of Rule 26(a)(1)).

MLPFS and MLPF are currently in the process of investigating the claims made in this action. Moreover, MLPFS and MLPF continue to engage in the discovery process. Accordingly, the instant disclosures reflect only the current status of MLPFS's and MLPF's investigation and discovery. MLPFS and MLPF reserve the right to supplement and/or amend their disclosures as additional information becomes available. In making the instant disclosures, MLPFS and MLPF do not concede that the prospective testimony of any individual identified



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herein, any document or category of documents identified herein, or any other information herein is discoverable, non-privileged, or admissible.

A. Witnesses/Individuals with Discoverable Information

Name and Address	Subject(s) of Information
All witnesses disclosed by Plaintiffs and any defendant.	All issues identified by Plaintiffs and/or defendants, including Plaintiffs' investment experience, the transactions at issue, and the advice sought and received by Plaintiffs.
Any other third party advisors of Plaintiffs.	Plaintiffs' investment experience, the transactions at issue, and the advice sought and received by Plaintiffs.

MLPFS and MLPF reserve the right to call additional witnesses after the issues are framed for trial and, in any event, may call rebuttal witnesses depending upon the evidence presented by Plaintiffs. This disclosure excludes expert witnesses, records custodians, and witnesses to summarize voluminous evidence.

B. Categories of Documents

1. Documents pertaining to the loan transaction entered into between MLPF and Plaintiffs. MLPF is currently in the process of locating such documents. MLPF cannot, at this time, disclose the exact location of all documents that fall within this category.
2. Documents pertaining to Plaintiffs' investments through MLPFS. MLPFS is currently in the process of locating such documents. MLPFS cannot, at this time, disclose the exact location of all documents that fall within this category.

C. Computation of Damages

MLPFS and MLPF are not currently claiming damages in this action. However, MLPFS and MLPF reserve the right to seek attorneys' fees, costs, indemnification and expenses incurred in the defense of this action.

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D. Insurance

MLPFS and MLPF do not carry insurance policies that would indemnify or reimburse them for any judgment rendered in this matter.

Respectfully submitted,

Bressler, Amery, & Ross P.C.
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CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing *Defendants Merrill Lynch, Pierce, Fenner & Smith Inc. and Merrill Lynch Private Finance LLC's Rule 26 Disclosures* has been served this 7th day of June, 2007 to all parties on the attached service list via facsimile and U.S. Mail.



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