



UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

TUTOR PERINI CORP.,	)	
	)	
Plaintiff,	)	
v.	)	CIVIL ACTION
	)	NO. 11-10895-NMG
BANC OF AMERICA SECURITIES LLC,	)	
now known as Merrill Lynch, Pierce, Fenner	)	
& Smith Incorporated, successor by merger,	)	
and BANK OF AMERICA, N.A.,	)	
	)	
Defendants.	)	

**REPORT AND RECOMMENDATION  
ON DEFENDANTS' MOTION TO DISMISS**

July 17, 2013

DEIN, U.S.M.J.

**I. INTRODUCTION**

This action, like many similar actions that have been filed throughout the country, was triggered by the collapse of the auction rate securities ("ARS") market in February 2008. In this case, the plaintiff, Tutor Perini Corp. ("Tutor Perini"),<sup>1</sup> has brought claims against its broker and investment advisor, Banc of America Securities LLC, now known as Merrill Lynch, Pierce, Fenner & Smith, Incorporated ("BAS"), and BAS's affiliate, Bank of America, N.A. ("BANA"). Tutor Perini alleges that during the time period from

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<sup>1</sup> In September 2008, Tutor Saliba Corporation merged with Perini Corporation, leaving Perini Corporation as the surviving entity. Thereafter, in May 2009, Perini Corporation changed its name to Tutor Perini. (Docket No. 30 at 1 n.1). For the sake of simplicity, this court has referred to the plaintiff only by its present name, Tutor Perini.

*After consideration of defendants' objections thereto (Docket No. 70),  
Report and Recommendation is accepted and adopted.*

*SJM/Goston, USDT 9/23/13*