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MICHAEL LING, ET AL. V. DEUTSCHE BANK AG, ET AL.

CASE NO. 4:05CV345

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
TEXAS, SHERMAN DIVISION**

2005 U.S. Dist. LEXIS 39212

December 30, 2005, Decided

December 30, 2005, Filed

PRIOR HISTORY: *Ling v. Deutsche Bank AG, 2005 U.S. Dist. LEXIS 31734 (E.D. Tex., Nov. 23, 2005)*

COUNSEL: [*1] For Michael Ling, Plaintiff: David R Deary, Jeven Robinson Sloan, W Ralph Canada, Jr, Deary Montgomery DeFeo & Canada, Dallas, TX; Othni J Lathram, Joe R Whatley, Jr, Whatley Drake LLC, Birmingham, AL; Stewart Clancy, Deary Montgomery DeFeo & Canada LLP, Attorneys & Counselors at Law, Dallas, TX.

For Charles McDonald, Richard Sweret, LMS Investments X, LLC, LMS Capital Corp, Srinivasa Madala, Madala Investments X, LLC, James Virgil Strange, Gayle Strange, Tremont Investments X, LLC, Robert Flath, Wendy S Flath, John Coats, Jane Coats, Lowell Anderson, FCA Investments LLC, FCA Capital Corp, David Laird, Deborah H Laird, Scott G Baker, Robyn Baker, L&B Investments LLC, Gary Maas, Kathleen Maas, Mass Investments X, LLC, Mark Hinton, Brenda Hinton, First HR Investments LLC, Plaintiffs: David R Deary, Jeven Robinson Sloan, W Ralph Canada, Jr, Deary Montgomery DeFeo & Canada, Dallas, TX; Joe R Whatley, Jr, Whatley Drake LLC, Birmingham, AL; Stewart Clancy, Deary Montgomery DeFeo & Canada LLP, Attorneys & Counselors at Law, Dallas, TX.

For Deutsche Bank AG, Deutsche Bank Securities Inc, a division of Deutsche Bank Securities Inc, doing business as Deutsche Bank Alex Brown, Defendants: [*2] Mike Stenglein, Dewey Ballantine LLP, Houston, TX.

For David Parse, Todd Clendening, Craig Brubaker, Defendants: Mike Stenglein, Dewey Ballantine LLP, Houston, TX; David M Bond, Sessa Kalapatapu, Boyar & Miller, Houston, TX; Laurie Edelstein, Susan Brune, Theresa Trzaskoma, Brune & Richard LLP -- San Francisco, San Francisco, CA.

For Clarion Capital LLC, Clarion Capital Corporation, Clarion Capital Holdings LLC, Clarion Capital Partners LLC, CF Advisors LXXI, LLC, CF Advisors LXXIV, LLC, Clarion Global Derivatives XXXV, LLC, Clarion Global Derivatives LXXXV, LLC, CF Advisors CXLI, LLC, CF Advisors CXXII, LLC, CF Advisors CXVI, LLC, CF Advisors CV, LLC, CF Advisors LII, LLC, CF Advisors LXIII, LLC, Daniel Brooks, Jr, Defendants: Chad D Hansen, David C Smith, Tonya R Deem, Kilpatrick Stockton LLP NC, Winston-Salem, NC.

For BDA&K Business Services Inc, KBA Group LLP, Robert Kipp, Defendants: Edward J Murphy, Beirne Maynard & Parsons, Houston, TX; John H Eickemeyer, Vedder Price Kaufman & Kammholz PC -- New York, New York, NY.

For Societe Generale, Paris, Defendant: Michael V Powell, Locke Liddell & Sapp, Dallas, TX.

For Smith & Frank Group Services Inc, as successor-by-merger [*3] to Smith, Frank & Partners LLC, Randy Smith, Chris Fay, Defendants: Gary Samuel Kessler, Robert P Oliver, Kessler & Collins, Dallas, TX.

JUDGES: PAUL BROWN, UNITED STATES DISTRICT JUDGE. County, Texas.

OPINION BY: PAUL BROWN

OPINION

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE

(Judge Brown Judge Bush)

Came on for consideration the Report of the United States Magistrate Judge in this action, this matter having been heretofore referred to United States Magistrate Judge Don D. Bush pursuant to 28 U.S.C. § 636. On November 28, 2005, the Magistrate Judge entered his Report containing his proposed findings of fact and recommendation that Plaintiffs' Motion to Remand be granted and that the above titled and numbered cause of action be remanded to the 219th District Court of Collin

County, Texas. Having received the report of the United States Magistrate Judge, and having made a *de novo* review of the objections filed by Defendants thereto, this Court is of the opinion that Defendants' objections are without merit and that the findings and conclusions of the Magistrate Judge are correct. The Court thus adopts the findings and conclusions of the [*4] Magistrate Judge as the findings and conclusions of the Court. It is, therefore,

ORDERED, ADJUDGED and DECREED that Plaintiffs' Motion to Remand is **GRANTED** and the above titled and numbered cause of action is **REMANDED** to the 219th District Court of Collin County, Texas.

Signed this **30** day of **December**, 2005

PAUL BROWN

UNITED STATES DISTRICT JUDGE