

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Tupper Briggs

Case Number: 18-02447

vs.

Respondents
Summit Brokerage Services, Inc.
VSR Financial Services, Inc.
Robert Edward Burns

Hearing Site: Denver, Colorado

Awards are rendered by independent arbitrators who are chosen by the parties to issue final, binding decisions. FINRA makes available an arbitration forum—pursuant to rules approved by the SEC—but has no part in deciding the award.

Nature of the Dispute: Customer vs. Members and Associated Person

This case was decided by an all-public panel.

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

For Claimant Tupper Briggs (“Claimant”): Jason J. Kane, Esq. and Christa Hibbard, Esq., Peiffer Wolf Carr Kane & Conway, LLP, Pittsford, New York.

For Respondents Summit Brokerage Services, Inc. (“Summit”), VSR Financial Services, Inc. (“VSR”), and Robert Edward Burns (“Burns”): Derek C. Anderson, Esq., Winget, Spadafora & Schwartzberg, LLP, Boulder, Colorado.

Hereinafter, Summit, VSR, and Burns are collectively referred to as “Respondents.”

CASE INFORMATION

Statement of Claim filed on or about: July 5, 2018.

Claimant signed the Submission Agreement: July 31, 2018.

Statement of Answer filed by Respondents on or about: October 8, 2018.

Summit signed the Submission Agreement: October 15, 2018.

VSR signed the Submission Agreement: October 9, 2018.

Burns signed the Submission Agreement: October 8, 2018.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following causes of action: violation of FINRA Rules 2110 and 2111; negligence; misrepresentation and omission of material facts; and breach of fiduciary duty. The causes of action relate to Respondent's recommendation to purchase and hold alleged unsuitable alternative investments.

Unless specifically admitted in the Statement of Answer, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

1. All losses of principal suffered by Claimant;
2. All interest, commissions and fees paid by Claimant;
3. Loss of income that would have been received had Claimant's account been managed properly, as well as other losses, foreseeable or not, that Claimant has suffered, including non-pecuniary losses;
4. Attorneys' fees, costs and other expenses;
5. Pre-judgment and post-judgment interest;
6. All other sums Claimant is entitled to at law or equity; and
7. Punitive damages.

In the Statement of Answer, Respondents requested:

1. Dismissal of Statement of Claim its entirety;
2. Costs and expenses of this arbitration, including forum fees and reasonable attorneys' fees; and
3. Such other relief as is just and proper.

Burns filed a request for expungement of all references to this matter from Central Registration Depository ("CRD") registration records. Please see the Other Issues Considered and Decided section of this Award for more information.

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrators acknowledge that they have each read the pleadings and other materials filed by the parties.

On June 5, 2019, Claimant filed a notice of voluntary dismissal with prejudice. Therefore, the Panel made no determination with respect to any of the relief requests contained in the Statement of Claim.

On June 26, 2019, Burns filed a Motion for Expungement of all references to Occurrence Number 2002533 from his CRD records. On July 8, 2019, Claimant filed his opposition to Burns' Motion for Expungement. On July 19, 2019, Burns filed a reply in support of his Motion for Expungement.

On October 30, 2020, Burns filed an Amended Motion for Expungement requesting expungement of all references to Occurrence Numbers 2002533 and 2043430 from his CRD records. On

November 9, 2020, Claimant filed his opposition to Burns' Amended Motion for Expungement. On November 16, 2020, Burns filed a reply in support of his Amended Motion for Expungement.

The Panel conducted recorded hearings by videoconference on May 7, 2021 and May 18, 2021, so the parties could present oral argument and evidence on Burns' request for expungement.

Claimant and the customers in Occurrence Number 2043430 participated in the expungement hearing and opposed Burns' request for expungement.

The Award in this matter may be executed in counterpart copies.

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, and any post-hearing submissions, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Respondent Robert Edward Burns' (CRD Number 4066393) request for expungement of Occurrence Numbers 2002533 and 2043430 from his registration records maintained by the CRD is denied.
2. Any and all claims for relief not specifically addressed herein, including any requests for attorneys' fees, are denied.

FEES

Pursuant to the Code of Arbitration Procedure ("Code"), the following fees are assessed:

Filing Fees

FINRA Dispute Resolution Services assessed a filing fee* for each claim:

Initial Claim Filing Fee = \$ 1,575.00

**The filing fee is made up of a non-refundable and a refundable portion.*

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm(s) that employed the associated person(s) at the time of the event(s) giving rise to the dispute. Accordingly, as parties, Summit and VSR are each assessed the following:

Member Surcharge = \$ 1,900.00
Member Process Fee = \$ 3,750.00

Postponement Fees

Postponements granted during these proceedings for which fees were assessed or waived:

October 21, 2019, postponement requested by Burns = \$ 1,125.00

Total Postponement Fees = \$ 1,125.00

The Panel has assessed the total postponement fees to Burns.

Last-Minute Cancellation Fees

Fees apply when a hearing on the merits is cancelled within ten calendar days before the start of a scheduled hearing session:

October 21, 2019, cancellation requested by Burns	= \$	1,800.00
<hr/>		
Total Last-Minute Cancellation Fees	= \$	1,800.00

The Panel has assessed the total last-minute cancellation fees to Burns.

Hearing Session Fees and Assessments

The Panel has assessed hearing session fees for each session conducted. A session is any meeting between the parties and the Arbitrator(s), including a pre-hearing conference with the Arbitrator(s), which lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) pre-hearing session with a single Arbitrator @ \$450.00/session	= \$	450.00
Pre-Hearing Conference: April 3, 2019	1 session	
One (1) pre-hearing session with the Panel @ \$1,125.00/session	= \$	1,125.00
Pre-Hearing Conferences: October 29, 2018	1 session	
Four (4) hearing sessions on expungement request @ \$1,125.00/session	= \$	4,500.00
Hearings: May 7, 2021	2 sessions	
May 18, 2021	2 sessions	
<hr/>		
Total Hearing Session Fees	= \$	6,075.00

The Panel has assessed \$787.50 of the hearing session fees to Claimant.

The Panel has assessed \$787.50 of the hearing session fees jointly and severally to Respondents.

The Panel has assessed \$4,500.00 of the hearing session fees to Burns.

ARBITRATION PANEL

Deanna M. Tuley	-	Public Arbitrator, Presiding Chairperson
Steven Meyrich	-	Public Arbitrator
Donald N. Tolin	-	Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm that I am the individual described herein and who executed this instrument, which is my award.

Concurring Arbitrators' Signatures

Deanna M. Tuley

Deanna M. Tuley
Public Arbitrator, Presiding Chairperson

06/18/2021

Signature Date

Steven Meyrich

Steven Meyrich
Public Arbitrator

06/16/2021

Signature Date

Donald N. Tolin

Donald N. Tolin
Public Arbitrator

06/17/2021

Signature Date

Awards are rendered by independent arbitrators who are chosen by the parties to issue final, binding decisions. FINRA makes available an arbitration forum—pursuant to rules approved by the SEC—but has no part in deciding the award.

June 22, 2021

Date of Service (For FINRA Dispute Resolution Services use only)