

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimants

Raphael Benabou
Donna Benabou

Case Number: 18-04341

vs.

Respondents

Ameriprise Financial Services, LLC
Robert Nicholas Korzik
James M. Korzik

Hearing Site: New York, New York

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: Customers vs. Member and Associated Persons

This matter proceeded pursuant to Rule 12800 of the Code of Arbitration Procedure (“Code”).

REPRESENTATION OF PARTIES

Claimants Raphael Benabou and Donna Benabou appeared pro se.

For Respondent Ameriprise Financial Services, LLC (“Ameriprise”): Sydney H. Crowder, Esq., Ameriprise Financial, Inc., Minneapolis, Minnesota.

For Respondents Robert Nicholas Korzik, (R. Korzik”) and James M. Korzik (“J. Korzik”): Kevin Galbraith, Esq. and Taylor Perretti, Esq., The Galbraith Law Firm, New York, New York. R. Korzik and J. Korzik are hereinafter collectively referred to as the “Korzik Respondents”.

CASE INFORMATION

Statement of Claim filed on or about: December 22, 2018.

Amended Statement of Claim filed on or about: February 5, 2020.

Raphael Benabou signed the Submission Agreement: January 4, 2019.

Donna Benabou signed the Submission Agreement: December 16, 2019.

Statement of Answer filed by Respondent Ameriprise Financial Services, LLC on or about: February 26, 2019.

Answer to Amended Statement of Claim filed on or about: June 1, 2020.

Ameriprise Financial Services, LLC signed the Submission Agreement: February 26, 2019.

Joint Statement of Answer filed by the Korzik Respondents on or about: February 27, 2019.
Answer to the Amended Statement of Claim filed on or about: June 1, 2020.
J. Korzik signed the Submission Agreement: February 27, 2019.
R. Korzik signed the Submission Agreement: February 27, 2019.

CASE SUMMARY

In the Statement of Claim, Claimant Raphael Benabou asserted the following causes of action: breach of fiduciary duty; failure to supervise; and respondeat superior. The causes of action relate to various securities in Claimant's accounts.

In the Amended Statement of Claim, Claimants asserted the following causes of action: breach of fiduciary duty; failure to supervise; and respondeat superior. The causes of action relate to various securities in Claimants' accounts.

Unless specifically admitted in the Statement of Answer and Answer to the Amended Statement of Claim, Respondent Ameriprise denied the allegations made in the Statement of Claim and Amended Statement of Claim and asserted various affirmative defenses.

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

RELIEF REQUESTED

In the Statement of Claim, Claimant Raphael Benabou requested: unspecified damages.

In the Amended Statement of Claim, Claimants requested: compensatory damages consisting of lost profits that would have accrued from a well-diversified portfolio, totaling approximately \$35,000; interest on the damages in the amount of 9% per annum pursuant to N.Y.C.P.L.R. §§ 5001 and 5004 from the date the damages were incurred; attorney's fees and all costs, expenses, and forum fees; disgorgement of fees paid to Respondents in the amount of approximately \$6,200; and such other and further relief as the Arbitrator deems proper.

In the Statement of Answer and Answer to the Amended Statement of Claim, Ameriprise requested that the Statement of Claim be dismissed with prejudice and that it be awarded forum costs/fees.

In the Statement of Answer and Answer to the Amended Statement of Claim, the Korzik Respondents requested: dismissal of every claim contained in the Statement of Claim; attorneys' fees and punitive damages; that all costs and fees be assessed to Claimants; expungement of this matter from the Korzik Respondents' CRDs records; and all such further relief as deemed appropriate.

OTHER ISSUES CONSIDERED AND DECIDED

The Arbitrator acknowledges having read the pleadings and other materials filed by the parties.

On February 5, 2020, Claimant Raphael Benabou filed a Motion to Amend the Statement of Claim to add Donna Benabou as a Claimant and requested a decision rendered solely on paper submission. All parties agreed to proceed pursuant to Rule 12800 of the Code. By Order dated February 26, 2020, the Motion to Amend the Statement of Claim was granted.

The Arbitrator conducted a recorded, telephonic hearing on November 5, 2021, so the parties could present oral argument and evidence on the Korzik Respondents' request for expungement.

The Arbitrator reviewed the Korzik Respondents' BrokerCheck® Reports. The Arbitrator noted that a prior arbitration panel or court has not previously ruled on expungement of the same occurrences in the CRD.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: the Korzik Respondents' BrokerCheck® Reports; the pleadings; the parties' extensive written submissions; and the Korzik Respondents' testimonies.

AWARD

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

1. Claimants' claims are denied in their entirety.
2. The Korzik Respondents' Counterclaim is denied.
3. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages and attorneys' fees, are denied.
4. FINRA Dispute Resolution Services shall retain the \$1,575.00 filing fee that Respondents deposited previously.
5. The Arbitrator recommends the expungement of all references to the above-captioned arbitration (Occurrence Numbers 2016199 and 2016201) from registration records maintained by the CRD for R. Korzik (CRD Number 1013350) and J. Korzik (CRD Number 5137395) with the understanding that, pursuant to Notice to Members 04-16, R. Korzik and J. Korzik must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

Unless specifically waived in writing by FINRA, parties seeking judicial confirmation of an arbitration award containing expungement relief must name FINRA as an additional party and serve FINRA with all appropriate documents.

Pursuant to Rule 12805 of the Code, the Arbitrator has made the following Rule 2080 affirmative findings of fact:

The claim, allegation, or information is factually impossible or clearly erroneous; and the claim, allegation, or information is false.

The Arbitrator has made the above Rule 2080 findings based on the following reasons:

The Korzik Respondents gave testimonies under oath at the expungement hearing supporting their request for expungement. Claimant Raphael Benabou appeared at the hearing but gave no testimony under oath. Though Claimants made a very lengthy submission on the merits, they provided no affidavits. Respondents provided affidavits in support of their contentions, which the Arbitrator found persuasive. One of their key points was that Claimants made money on their account. At the hearing, Claimant Raphael Benabou conceded that he suffered no economic damage as a result of the conduct he was complaining about and that he did not object to the expungement.

The Arbitrator concluded that Claimants' statements lacked credibility and found their claims baseless.

FEES

Pursuant to the 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
Counterclaim Filing Fee	= \$	1,575.00

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

FINRA Dispute Resolution Services previously deferred Claimants' filing fee of \$1,575.00. Upon conclusion of the matter, the Arbitrator determined to assess the non-refundable filing fee of \$375.00.

Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firm that employed the associated persons at the time of the events giving rise to the dispute. Accordingly, as a party, Ameriprise is 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:

November 12-15, 2019, postponement requested by Claimants	= \$	1,125.00
<hr/> Total Postponement Fees	= \$	1,125.00

The Arbitrator has assessed the total postponement fees to Claimant Raphael Benabou.

Discovery-Related Motion Fees

Fees apply for each decision rendered on a discovery-related motion.

Three (3) decisions on discovery-related motions on the papers = \$ 600.00
with one (1) Arbitrator @ \$200.00/decision

Claimants submitted two (2) discovery-related motions
The Korzik Respondents submitted one (1) discovery-related motion

Total Discovery-Related Motion Fees = \$ 600.00

The Arbitrator has assessed \$400.00 of the discovery-related motion fees joint and severally to Claimants.

The Arbitrator has assessed \$200.00 of the discovery-related motion fees joint and severally to Respondents.

Hearing Session Fees and Assessments

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

One (1) pre-hearing session with Panel @ \$1,125.00/session = \$ 1,125.00
Pre-Hearing Conference: May 2, 2019 1 session

One (1) hearing session on expungement request @ \$450.00/session = \$ 450.00
Hearing: November 5, 2021 1 session

Decision on the papers: = \$ 450.00

Total Hearing Session Fees = \$ 2,025.00

The Arbitrator has assessed \$562.50 of the hearing session fees to Claimant Raphael Benabou.

The Arbitrator has assessed \$562.50 of the hearing session fees jointly and severally to Respondents.

The Arbitrator has assessed \$450.00 of the hearing session fees to the Korzik Respondents for the November 5, 2021 expungement hearing.

The Arbitrator has assessed the \$450.00 paper decision fees jointly and severally to Claimants.

All balances are payable to FINRA Dispute Resolution Services and are due upon receipt.

ARBITRATOR

Francis Carling

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Sole Public Arbitrator

I, the undersigned Arbitrator, do hereby affirm, pursuant to Article 7507 of the Civil Practice Law and Rules, that I am the individual described herein and who executed this instrument, which is my award.

Arbitrator's Signature

Francis Carling

Francis Carling
Sole Public Arbitrator

11/22/2021

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.

November 23, 2021

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