

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Carolyn R. Long

Case Number: 19-00961

vs.

Respondents
A.G.P. / Alliance Global Partners, as a
Successor in Interest to Euro Pacific Capital, Inc.,
and Peter Schiff

Hearing Site: Houston, Texas

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. Member and Associated Person

This case was decided by an all-public panel.

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

For Claimant Carolyn R. Long (“Claimant”): James Galvin, Esq. and Jason R. Doss, Esq., The Doss Firm, LLC, Marietta, Georgia.*

For Respondents A.G.P. / Alliance Global Partners, as a successor in interest to Euro Pacific Capital, Inc. (“A.G.P.”), and Peter Schiff (“Schiff”) (collectively, “Respondents”): David A. Gehn, Esq, Ellenoff Grossman & Schole LLP, New York, New York.

*FINRA recorded the appearance of Claimant’s counsel at the time of filing of the Statement of Claim. Counsel’s representation of Claimant may have ended with the parties’ settlement. Please see the Other Issues Considered and Decided section of this Award for information on whether Claimant’s counsel appeared at the expungement hearing.

CASE INFORMATION

Statement of Claim filed on or about: April 9, 2019.
Claimant signed the Submission Agreement: March 29, 2019.

Statement of Answer filed by Respondents on or about: June 12, 2019.
Respondents signed the Submission Agreement: June 12, 2019.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following causes of action: violations of the Texas Securities Act, breach of fiduciary duty, common law fraud, constructive fraud, continuing tort, breach of contract, breach of duty, negligence, failure to supervise, and secondary liability. The causes of action related to Claimant's allegation that Respondents invested her retirement assets in high-risk, high-commission, and illiquid alternative investments which were unsuitable for her, including private placements issued by Minerva-Rockdale E&P III LLC, Minerva-Rockdale E&P IV LLC, China Networks International Holdings Ltd., U.S. China Mining Group, Inc., Olympus Pacific Minerals Inc. (n/k/a Besra Gold Inc.), EuroPac Energy LLC, EuroPac Energy III LLC, International Isotopes Inc., China Nutrifruit Group Ltd., Greyhound Commissary, Inc. (n/k/a Tanke Biosciences Corporation), North American Palladium Ltd., Brigus Gold Corp., and Yayi International Inc. Claimant also alleged that the investments with Minerva-Rockdale entities and China Networks International Holdings Ltd. had bogus physical addresses and were likely fraudulent. And, Claimant alleged that A.G.P. filed several lawsuits alleging fraud against issuers of some of the 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 actual damages in excess of \$450,000.00; well-managed account damages; out-of-pocket damages and benefit-of-the bargain damages; rescission; disgorgement of fees and commissions; punitive damages; attorneys' fees; and pre-judgment and post-judgment interest.

In the Statement of Answer, Respondents requested that the Statement of Claim be denied and dismissed in its entirety and that the Panel award such other relief as it deems just and equitable.

Schiff 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 September 20, 2019, Respondents filed a Motion to Dismiss Pursuant to Rule 12206 ("Motion to Dismiss") of the Code of Arbitration Procedure ("Code"). On November 4, 2019, Claimant filed a Response in Opposition to the Motion to Dismiss ("Opposition to the Motion to Dismiss"). On November 5, 2019, Claimant filed a revision to the Opposition to the Motion to Dismiss. On November 18, 2019, Respondents filed a Reply to the Opposition to the Motion to Dismiss. On December 19, 2019, the Panel heard oral arguments on the Motion to Dismiss and, in an Order dated the same day, denied the Motion to Dismiss.

On March 1, 2021, Claimant filed a Motion for Virtual Arbitration Hearings Via Zoom (“Motion for Zoom Hearing”). On March 15, 2021, Respondents filed a response to the Motion for Zoom Hearing. On March 16, 2021, Claimant filed a Reply in Support of the Motion for Zoom Hearing. In an Order dated March 22, 2021, the Panel granted the Motion for Zoom Hearing.

On April 16, 2021, Claimant filed a Motion for Sanctions (“Motion for Sanctions”). On April 26, 2021, Respondents’ filed an Opposition to the Motion for Sanctions and Cross-Motion for Sanctions (“Cross-Motion”).

On May 27, 2021, Claimant filed a notice of dismissal with prejudice and requested that the case remain open to allow Schiff an opportunity to pursue expungement. On June 4, 2021, Schiff filed a request for an expungement hearing. Therefore, the Panel made no determination with respect to the Motion for Sanctions, Cross-Motion, or any of the relief requests contained in the Statement of Claim.

The Panel conducted a recorded hearing by videoconference on June 15, 2021, so the parties could present oral argument and evidence on Schiff’s request for expungement.

Claimant, through counsel, participated in the expungement hearing and opposed the request for expungement.

The Panel reviewed Schiff’s BrokerCheck® Report. The Panel noted that a prior arbitration panel or court has not previously ruled on expungement of the same occurrence in the CRD.

The Panel also reviewed the settlement documentation, considered the amount of payment made to any party to the settlement, and considered other relevant terms and conditions of the settlement. The Panel noted that the settlement was not conditioned on any party to the settlement not opposing the request for expungement and that Schiff contributed to the settlement amount.

In recommending expungement, the majority of the Panel relied upon the following documentary or other evidence: Schiff’s testimony and settlement documentation.

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. The Panel recommends the expungement of all references to the above-captioned arbitration (Occurrence Number 2078200) from registration records maintained by the CRD for Peter David Schiff (CRD Number 1759484) with the understanding that, pursuant to Notice to Members 04-16, Peter David Schiff 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 Panel has made the following Rule 2080 affirmative finding of fact:

The registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds.

The Panel has made the above Rule 2080 finding based on the following:

Schiff's testimony was that he never met or spoke with Claimant and, therefore, was not involved with any of her securities transactions. Schiff's testimony was credible and not impeached by cross examination. Claimant's counsel presented evidence but none of the evidence indicated that Schiff had any involvement in the alleged investment-related sales practice violations. Schiff's explanation as to why his name initially appeared on Claimant's statements was both credible and uncontradicted. Further, the settlement agreement provided that Schiff would receive title to the securities at issue in this matter and Schiff testified that the securities are worth at least as much as the amount he paid.

2. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages, treble damages, and attorneys' fees, are denied.

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 = \$ 1,425.00

**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 a party, A.G.P. is assessed the following:

Member Surcharge = \$ 1,900.00

Member Process Fee = \$ 3,750.00

Discovery-Related Motion Fees

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

One (1) decisions on discovery-related motion on the papers with one (1) Arbitrator @ \$200.00/decision = \$ 200.00

Claimant submitted one (1) discovery-related motion

Total Discovery-Related Motion Fees	= \$	200.00
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The Panel has assessed \$100.00 of the discovery-related motion fees to Claimant.

The Panel has assessed \$100.00 of the discovery-related motion fees jointly and severally to Respondents.

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:

Four (4) pre-hearing sessions with the Panel @ \$1,125.00/session	= \$	4,500.00
Pre-Hearing Conferences: August 2, 2019	1 session	
December 19, 2019	1 session	
June 2, 2020	1 session	
April 26, 2021	1 session	

One (1) hearing session on expungement request @ \$1,125.00/session	= \$	1,125.00
Hearing: June 15, 2021	1 session	

Total Hearing Session Fees	= \$	5,625.00
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The Panel has assessed \$1,687.50 of the hearing session fees to Claimant.

The Panel has assessed \$2,812.50 of the hearing session fees jointly and severally to Respondents.

The Panel has assessed \$1,125 of the hearing session fees to Schiff.

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

ARBITRATION PANEL

Michael S. Yauch	-	Public Arbitrator, Presiding Chairperson
Wayne Irwin Fagan	-	Public Arbitrator
Esther Treneer	-	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

Michael S. Yauch

Michael S. Yauch
Public Arbitrator, Presiding Chairperson

07/10/2021

Signature Date

Esther Treneer

Esther Treneer
Public Arbitrator

07/12/2021

Signature Date

Dissenting Arbitrator's Signature

Wayne Irwin Fagan

Wayne Irwin Fagan
Public Arbitrator

07/09/2021

Signature Date

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July 12, 2021

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