

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant

Michael A. Fetzner

Case Number: 19-01541

vs.

Respondent

Reid & Rudiger LLC
Edward Rudiger, Jr.
Kelli Mezzatesta

Hearing Site: Buffalo, 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: Customer vs. Member and Associated Persons

This case was decided by an all-public panel.

The evidentiary hearing was conducted partially by videoconference.

REPRESENTATION OF PARTIES

For Claimant Michael A. Fetzner: Jonathan E. Neuman, Esq., Law Offices of Jonathan E. Neuman, Esq., Fresh Meadows, New York.

For Respondents Reid & Rudiger LLC, Edward Rudiger, Jr., and Kelli Mezzatesta: Joel S. Forman, Esq., Akerman LLP, New York, New York.

CASE INFORMATION

Statement of Claim filed on or about: June 4, 2019.

Michael A. Fetzner signed the Submission Agreement: May 28, 2019.

Joint Statement of Answer filed by Respondents on or about: July 22, 2019.

Reid & Rudiger LLC did not sign the Submission Agreement.

Edward Rudiger, Jr. did not sign the Submission Agreement.

Kelli Mezzatesta did not sign the Submission Agreement.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following causes of action: statutory and common law fraud; misrepresentation; negligence; breach of contract; breach of fiduciary duty; unjust enrichment; violation of the Pennsylvania Elder Financial Abuse Statute; negligent misrepresentation; breach of the covenants of good faith and fair dealing; negligent supervision; and respondeat superior. The causes of action relate to unspecified securities.

Unless specifically admitted in the Joint 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 disgorgement of the approximately \$99,557.00 in total commissions, fees, and mark-ups; rescission of the sale of the original purchases to the tune of \$180,000.00; interest at the statutory rate; reimbursement for the reasonable costs associated with the filing of this claim, including costs of representation, travel and expert witnesses fees; and punitive damages.

In the Joint Statement of Answer, Respondents requested that Claimant's claims be denied, and that Claimant be required to bear all costs of this proceeding.

At the hearing, Claimant requested \$1,133,737.00 in compensatory damages, or, in the alternative, \$98,666.00, plus attorneys' fees, punitive damages, interest, filing and forum fees, and \$5,000.00 in costs.

OTHER ISSUES CONSIDERED AND DECIDED

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

Respondents Reid & Rudiger LLC, Edward Rudiger, Jr., and Kelli Mezzatesta did not file properly executed Submission Agreements but are required to submit to arbitration pursuant to the Code of Arbitration Procedure ("Code") and, having answered the claim, appeared, and testified at the hearing, are bound by the determination of the Panel on all issues submitted.

Respondent Kelli Mezzatesta and various witnesses appeared at the hearing via videoconference.

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. Respondents are jointly and severally liable for and shall pay to Claimant the sum of \$98,666.00 in compensatory damages.

2. Respondents are jointly and severally liable for and shall pay to Claimant interest on the above-stated sum at the rate of 6% per annum from October 18, 2018 through and including the date that the Award is paid.
3. Respondents are jointly and severally liable for and shall pay to Claimant the sum of \$32,889.00 in attorneys' fees. Both parties requested attorneys' fees and both parties conceded to the Panel's authority to assess attorneys' fees.
4. Respondents are jointly and severally liable for and shall pay to Claimant \$300.00 to reimburse Claimant for the non-refundable portion of Claimant's filing fee previously paid to FINRA Dispute Resolution Services.
5. Any and all claims for relief not specifically addressed herein, including any requests for punitive damages, 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 | =\$ 1,425.00 |
|--------------------------|--------------|

**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 that employed the associated person at the time of the events giving rise to the dispute. Accordingly, as a party, Respondent Reid & Rudiger LLC is assessed the following:

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

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 Arbitrators, including a pre-hearing conference with the Arbitrators, which lasts four (4) hours or less. Fees associated with these proceedings are:

| | |
|--|--------------|
| Six (6) pre-hearing sessions with the Panel @ \$1,125.00/session | =\$ 6,750.00 |
| Pre-Hearing Conferences: | |
| October 3, 2019 | 1 session |
| December 9, 2019 | 1 session |
| October 20, 2020 | 1 session |
| November 18, 2020 | 1 session |
| March 15, 2021 | 1 session |
| October 29, 2021 | 1 session |
| Six (6) hearing sessions @ \$1,125.00/session | =\$ 6,750.00 |

| | | |
|-----------|------------------|------------|
| Hearings: | November 1, 2021 | 2 sessions |
| | November 2, 2021 | 2 sessions |
| | November 3, 2021 | 2 sessions |

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|----------------------------|----------------|
| Total Hearing Session Fees | = \$ 13,500.00 |
|----------------------------|----------------|

The Panel has assessed \$3,375.00 of the hearing session fees to Claimant.

The Panel has assessed \$10,125.00 of the hearing session fees jointly and severally to Respondents.

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

ARBITRATION PANEL

| | | |
|-------------------|---|--|
| James S. Parker | - | Public Arbitrator, Presiding Chairperson |
| Jeffrey M. Bain | - | Public Arbitrator |
| Clifford C. Rohde | - | 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.

Concurring Arbitrators' Signatures

James S. Parker

James S. Parker
Public Arbitrator, Presiding Chairperson

12/15/2021

Signature Date

Jeffrey M. Bain

Jeffrey M. Bain
Public Arbitrator

12/15/2021

Signature Date

Clifford C. Rohde

Clifford C. Rohde
Public Arbitrator

12/16/2021

Signature Date

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December 17, 2021

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