

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
James Cox

Case Number: 19-01849

vs.

Respondents
Traderfield Securities Inc., Mario Divita, and
Daniel M. Soliman

Hearing Site: Milwaukee, Wisconsin

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

REPRESENTATION OF PARTIES

For Claimant James Cox (“Claimant”): Daniel D’Costa, Esq., D’Costa Law, P.C., Hicksville, New York.*

For Respondent Traderfield Securities Inc. (“Traderfield”): Mario Divita, CEO, Traderfield Securities, Inc., New York, New York.

Respondent Mario Divita (“Divita”) appeared pro se.

Respondent Daniel M. Soliman (“Soliman”) did not appear.

*FINRA recorded the appearance of Claimant’s counsel as of March 31, 2020. 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: July 1, 2019.

Claimant signed the Submission Agreement: June 28, 2019.

Statement of Answer filed by Traderfield and Divita on or about: September 3, 2019.

Traderfield and Divita signed the Submission Agreements: February 17, 2020.

Soliman did not file a Statement of Answer or 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, and breach of fiduciary duty. The causes of action related to Claimant's allegation that Soliman made unsuitable recommendations, including recommending the use of margin, which resulted in excessive risk and increased commissions.

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

RELIEF REQUESTED

In the Statement of Claim, Claimant requested compensation for trading losses in the amount of approximately \$62,000.00 or an amount the Arbitrator deems to be appropriate; disgorgement of approximately \$37,000.00 in commissions, mark-ups, interest, and fees; interest, at the statutory rate, as provided by law; reimbursement for the reasonable costs associated with the filing of this claim, including costs of representation, travel, and expert witnesses; and punitive damages.

In the Statement of Answer, Traderfield and Divita requested an Order striking the Statement of Claim in its entirety pursuant to Rule 12208(c) of the Code of Arbitration Procedure ("Code") and that they be awarded all costs and expenses related to this matter, including FINRA costs; expungement of all references to this matter from Central Registration Depository ("CRD") registration records; and all other relief the Arbitrator deems just and proper.

OTHER ISSUES CONSIDERED AND DECIDED

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

Soliman did not file a properly executed Submission Agreement but is required to submit to arbitration pursuant to the Code.

Soliman did not file a Statement of Answer. The Arbitrator determined that Soliman was served with the Claim Notification letter dated July 1, 2019 by regular mail and certified mail, as evidenced by the signed signature card on file, and the Overdue Notice (including the Statement of Claim) dated September 5, 2019 by regular and certified mail, as evidenced by the signed signature card on file. The Arbitrator also determined that Soliman was served with the Notification of Arbitrator dated September 27, 2019 by regular mail.

The Claim Notification letter notified Soliman that FINRA rules require parties to use the online DR Portal on a mandatory basis (except pro se investors) and that failure to register for the DR Portal will prevent the submission of pleadings, selection of arbitrators, and receipt of notification relating to case information and deadlines. Soliman failed to register for the DR Portal.

The Arbitrator determined that Soliman is, therefore, bound by the Arbitrator's ruling and determination.

On September 3, 2019, Traderfield and Divita filed a Motion to Strike the Statement of Claim (“Motion to Strike”) pursuant to Rule 12208(c) of the Code. On September 10, 2019, Claimant filed a Response to the Motion to Strike. In an Order dated April 7, 2020, the Arbitrator determined that the Motion to Strike was moot due to a change in Claimant’s representation.

On February 22, 2021, Claimant filed a notice of settlement and dismissal with prejudice. Therefore, the Arbitrator made no determination with respect to any of the relief requests contained in the Statement of Claim.

On March 9, 2021, Divita filed a request for expungement, to which no response was filed.

The Arbitrator conducted a recorded, telephonic hearing on April 22, 2021, so the parties could present oral argument and evidence on Divita’s request for expungement.

Neither Claimant nor Claimant’s counsel participated in the expungement hearing.

AWARD

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

1. Divita’s request for expungement of the above-captioned arbitration (Occurrence Number 2048895) from his registration records maintained by the CRD is denied.
2. Any and all claims for relief not specifically addressed herein 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	=\$	975.00
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**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, Traderfield is assessed the following:

Member Surcharge	=\$	1,100.00
Member Process Fee	=\$	2,250.00

Late Pre-Hearing Cancellation Fees

Fees apply when a pre-hearing conference is cancelled within three business days of the scheduled conference:

November 8, 2019, cancellation requested by Claimant	= \$	100.00
Total Late Pre-Hearing Cancellation Fees	= \$	100.00

The Arbitrator has assessed the total late pre-hearing cancellation fees to Claimant.

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:

Two (2) pre-hearing sessions @ \$450.00/session	= \$	450.00
Pre-Hearing Conferences: March 4, 2020	1 session	Waived
April 7, 2020	1 session	
One (1) hearing session on expungement request @ \$450.00/session	= \$	450.00
Hearing: April 22, 2021	1 session	
Total Hearing Session Fees	= \$	900.00

The Arbitrator has assessed \$225.00 of the hearing session fees to Claimant.

The Arbitrator has assessed \$225.00 of the hearing session fees jointly and severally to Traderfield, Divita, and Soliman.

The Arbitrator has assessed \$450.00 of the hearing session fees to Divita.

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

ARBITRATOR

Barry Goldman

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Sole 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.

Arbitrator's Signature

Barry Goldman

Barry Goldman
Sole Public Arbitrator

05/05/2021

Signature Date

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May 06, 2021

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