

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimants

Kenneth Koch, II
Kenneth Koch II IRA
Kenneth Koch II Roth IRA
Koch Holdings LLLP
Deborah J. Koch
Deborah J. Koch Roth IRA

Case Number: 19-02688

vs.

Respondents

Raymond James Financial Services, Inc.
Monica Mary Baldwin

Hearing Site: Cheyenne, Wyoming

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 Person

This case was decided by an all-public panel.

The evidentiary hearing was conducted by videoconference.

REPRESENTATION OF PARTIES

For Claimants Kenneth Koch, II, Kenneth Koch II Roth IRA, Kenneth Koch II IRA, Deborah J. Koch, Deborah J. Koch Roth IRA and Koch Holdings LLLP (collectively, “Claimants”): Dietrich P. Epperson, Esq. and Andrew M. Greenidge, Esq., Epperson & Greenidge, LLP, Media, Pennsylvania.

For Respondents Raymond James Financial Services, Inc. (“Raymond James”) and Monica Mary Baldwin (“Baldwin”): Elizabeth H. Lindh, Esq. and Katherine L. Handy, Esq., Keesal, Young & Logan, San Francisco, California.

Hereinafter, Raymond James and Baldwin are collectively referred to as “Respondents.”

CASE INFORMATION

Statement of Claim filed on or about: September 5, 2019.

Claimants signed the Submission Agreement: September 5, 2019.

Statement of Answer filed by Respondents on or about: November 11, 2019.

Raymond James signed the Submission Agreement: November 8, 2019.

Baldwin signed the Submission Agreement: November 11, 2019.

CASE SUMMARY

In the Statement of Claim, Claimants asserted the following causes of action: violations of FINRA Rules 2090, 2111 and 3110; liability for the misconduct of employees; negligent supervision; failure to supervise; negligence; breach of fiduciary duty; breach of contract; and breach of the duty of good faith and fair dealing. The causes of action relate to Claimants' investments including InterOil Corp., Halliburton, QEP RES Inc., Synergy Res, Oasis Petroleum, Wildhorse Resource, Continental Resources, and Pioneer Natural Resources stock.

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, Claimants requested:

1. Compensatory damages sustained as a result of Respondents' wrongdoing in an amount determined at final hearing, approximately \$4,000,000.00;
2. Post-award interest until the award is fully paid and satisfied by Respondents;
3. Disgorgement of fees, commissions and compensation earned from Claimants' investments;
4. Attorneys' fees, expenses and costs, including experts' fees;
5. Pre-award interest at the Colorado statutory rate of 8% per annum; and
6. Such additional equitable injunctive or other relief as deemed appropriate by the Panel.

In the Statement of Answer, Respondents requested:

1. The Statement of Claim be dismissed in its entirety;
2. All forum costs, attorneys' fees, expert fees and other costs be assessed against Claimants;
3. Expungement of the claim from Raymond James' and Baldwin's Central Registration Depository ("CRD") records; and
4. Such other and further relief as the Panel deems just and appropriate.

At the hearing, Claimants requested:

1. Compensatory damages in an amount the Panel finds is just and equitable considering the facts of the arbitration;
2. Disgorgement of all commissions/fees received by Respondents, directly or indirectly, in connection with trading in Claimants' accounts during the six-year eligibility period in the amount of \$347,697.00;
3. Expert witness fees in the amount of \$19,640.00;
4. Reasonable attorney's fees in an amount that will cover 30% contingency fee Claimants agreed to pay counsel pursuant to Colo. Rev. Stat. § 11-51-604(3) and (4), common law or the Panel's inherent authority;
5. Reimbursement of costs in the amount of \$8,768.42;

6. Pre-award interest at the rate of 8% running from the date the Statement of Claim was filed until the date of the award, pursuant to Colo. Rev. Stat. § 5-12-101;
7. Post-award interest at the rate of 8% pursuant to Colo. Rev. Stat. § 5-12-102(4); and
8. Hearing session fees be assessed against Respondents.

OTHER ISSUES CONSIDERED AND DECIDED

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

On July 6, 2020, Claimants filed a motion to amend the Statement of Claim. On July 13, 2020, Respondents filed their opposition to Claimants' motion. On July 16, 2020, Claimants filed a reply in support of their motion to amend the Statement of Claim. By Order dated August 5, 2020, the Panel denied Claimants' motion to amend the Statement of Claim.

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

AWARD

After considering the pleadings, the testimony and evidence presented at the hearing, 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 Claimants the sum of \$165,000.00 in compensatory damages.
2. Respondent Baldwin's request for expungement of this matter from her CRD records is denied.
3. Any and all claims for relief not specifically addressed herein, including 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	=\$ 2,000.00
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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, Raymond James is assessed the following:

Member Surcharge	=\$ 3,025.00
Member Process Fee	=\$ 6,175.00

Postponement Fees

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

November 13-14, 16-20, 2020, postponement requested by Parties = \$ Waived

Discovery-Related Motion Fees

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

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

Claimants submitted one (1) discovery-related motion

Total Discovery-Related Motion Fees = \$ 200.00

The Panel has assessed the total 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:

Three (3) pre-hearing sessions with the Panel @ \$1,400.00/session = \$ 4,200.00
Pre-Hearing Conferences: December 20, 2019 1 session
August 4, 2020 1 session
October 12, 2020 1 session

Thirty-seven (37) hearing sessions @ \$1,400.00/session = \$ 51,800.00
Hearings: January 18, 2021 2 sessions
January 19, 2021 2 sessions
January 20, 2021 2 sessions
January 21, 2021 2 sessions
January 22, 2021 2 sessions
January 24, 2021 2 sessions
January 25, 2021 2 sessions
January 26, 2021 2 sessions
January 27, 2021 2 sessions
January 28, 2021 2 sessions
January 29, 2021 2 sessions
July 6, 2021 2 sessions
July 7, 2021 2 sessions
July 8, 2021 2 sessions
July 9, 2021 2 sessions
July 12, 2021 2 sessions
July 13, 2021 2 sessions
July 14, 2021 3 sessions

Total Hearing Session Fees = \$ 56,000.00

The Panel has assessed \$28,000.00 of the hearing session fees jointly and severally to Claimants.

The Panel has assessed \$28,000.00 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

Deanna M. Tuley	-	Public Arbitrator, Presiding Chairperson
Marilyn R. Lewis	-	Public Arbitrator
Julia Yael Ramos	-	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

08/10/2021

Signature Date

Marilyn R. Lewis

Marilyn R. Lewis
Public Arbitrator

08/10/2021

Signature Date

Julia Yael Ramos

Julia Yael Ramos
Public Arbitrator

08/09/2021

Signature Date

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August 12, 2021

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