

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Jonathan Siegel

Case Number: 19-02741

vs.

Respondent
Ameriprise Financial Services, Inc.

Hearing Site: Los Angeles, California

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

REPRESENTATION OF PARTIES

For Claimant Jonathan Siegel (“Claimant”): Bradford M. Gucciardo, Esq., Gucciardo Law Group, P.A., Lakewood Ranch, Florida.*

For Respondent Ameriprise Financial Services, Inc. (“Respondent”): Timothy N. Will, Esq., Albert & Will, LLP, Torrance, California.

*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: September 11, 2019.
Claimant signed the Submission Agreement: September 11, 2019.

Statement of Answer filed by Respondent on or about: December 6, 2019.
Respondent signed the Submission Agreement: December 10, 2019.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following causes of action: negligence; breach of fiduciary duty; and breach of contract. The causes of action relate to an investment in an Inland American Real Estate Investment Trust (“REIT”).

In the Statement of Answer, Respondent denied the allegations made in the Statement of Claim and asserted various affirmative defenses.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

1. Compensatory damages of at least \$100,000.00;
2. Punitive damages of two times the amount of compensatory damages awarded;
3. Pre-award and post-award interest for Claimant's loss of use of his capital;
4. All costs and fees incurred including forum fees, expert witness fees, and attorneys' fees; and
5. Such further relief as the Arbitrators deem just and appropriate.

In the Statement of Answer, Respondent requested dismissal of Claimant's claims in their entirety.

OTHER ISSUES CONSIDERED AND DECIDED

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

On March 3, 2020, Respondent filed a motion to dismiss pursuant to Rule 12206 of the Code of Arbitration Procedure ("Code"). On April 16, 2020, Claimant filed an opposition to the motion. On April 28, 2020, Respondent replied to the opposition. On May 5, 2020, the Panel granted the motion to dismiss in part and denied in part. The Panel dismissed Claimant's claims related to the REIT for more than 6 years prior to the filing of this case and denied dismissal of all claims within the 6 years prior to the filing of this case.

On December 11, 2020, Claimant filed a notice of voluntary dismissal of all claims asserted against Respondent with prejudice. Therefore, the Panel made no determination with respect to any of the relief requests contained in the Statement of Claim.

On January 5, 2021, the parties filed a letter stipulating to Michael Florio presiding as the sole arbitrator to decide any remaining expungement claims. As such, the remaining members of the Panel were dismissed.

On January 7, 2021, Respondent filed a motion for expungement on behalf of unnamed party, Carolyn Frances Hemann ("Hemann"), to expunge all reference to this arbitration from her Central Registration Depository ("CRD") records. Claimant did not file a response.

The Arbitrator conducted a recorded, telephonic hearing on February 26, 2021, so the parties could present oral argument and evidence on Hemann's request for expungement. Claimant did not participate in the expungement hearing.

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

The Arbitrator 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 Arbitrator noted that the settlement was not conditioned on any party to the settlement not opposing the request for expungement and that Hemann did not contribute to the settlement amount.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Statement of Claim; Statement of Answer; Hemann's BrokerCheck® Report; the settlement agreement; and testimony provided at 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. The Arbitrator recommends the expungement of all references to the above-captioned arbitration (Occurrence Number 2049438) from registration records maintained by the CRD for unnamed party Carolyn Frances Hemann (CRD Number 1623885) with the understanding that, pursuant to Notice to Members 04-16, unnamed party Carolyn Frances Hemann 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 finding of fact:

The claim, allegation, or information is false.

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

The initial arbitration proffered by Claimant alleged Hemann, through her employer, Respondent, made an unsuitable recommendation to purchase REIT equities on Claimant's behalf. The claim being that this recommendation was contrary to Claimant's stated financial information, investment objectives, investment experience, and risk tolerance. Claimant alleged that he did not have sufficient investment experience and knowledge to understand and accept the risks and benefits of the REIT investments.

Hemann presented conclusive documentation of official company forms which were signed by Claimant, articulating his prior above average trading experience in REITs, his definitive knowledge of the risks and benefits of the current REIT purchase, evidence that Hemann made no misrepresentations of any facts related to the REIT investment, and neither Respondent nor Hemann guaranteed the performance of the REITs against loss during Claimant's non-tradable period of ownership interest of the equities in question.

The parties settled prior to the expungement hearing in this matter for a trivial amount. Hemann did not contribute to the settlement. Based on all the evidence presented, the allegations made by Claimant are false.

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
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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 that employed the associated person at the time of the event giving rise to the dispute. Accordingly, as a party, Respondent is assessed the following:

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

Three (3) pre-hearing sessions with the Panel @ \$1,125.00/session	= \$	3,375.00
Pre-Hearing Conferences: January 9, 2020	1 session	
April 30, 2020	1 session	
September 3, 2020	1 session	
One (1) hearing session on expungement request @ \$450.00/session	= \$	450.00
Hearing: February 26, 2021	1 session	
<hr/> Total Hearing Session Fees	= \$	3,825.00

The Arbitrator has assessed \$1,687.50 of the hearing session fees to Claimant.

The Arbitrator has assessed \$2,137.50 of the hearing session fees to Respondent.

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

ARBITRATOR

Michael John Florio

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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

Michael John Florio

Michael John Florio
Sole Public Arbitrator

03/03/2021

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.

March 4, 2021

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