

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Kent Lovelace

Case Number: 19-02787

vs.

Respondents
Aegis Capital Corp.
Pratol Victor Agnihotri

Hearing Site: Jackson, Mississippi

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 a majority-public panel.

REPRESENTATION OF PARTIES

For Claimant Kent Lovelace (“Claimant”): Eric J. Sussman, Esq., Eric J. Sussman Attorney at Law, Rockville Centre, New York.

For Respondent Aegis Capital Corp. (“Aegis Capital”): Sameer Rastogi, Esq., Sichenzia Ross Ference, LLP, New York, New York.

For Respondent Pratol Victor Agnihotri (“Agnihotri”): Timothy Feil, Esq., Carmel, Milazzo & DiChiarra, LLP, Bohemia, New York.

Hereinafter, Aegis Capital and Agnihotri are collectively referred to as “Respondents”.

CASE INFORMATION

Statement of Claim filed on or about: July 30, 2019.
Claimant signed the Submission Agreement: August 27, 2019.

Statement of Answer filed by Aegis Capital on or about: December 13, 2019.
Statement of Answer filed by Agnihotri on or about: January 10, 2020.
Aegis Capital signed the Submission Agreement: December 3, 2019.
Agnihotri signed the Submission Agreement: January 10, 2020.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following causes of action: suitability; unauthorized trading; failure to follow instructions; negligence; selling away; failure to supervise; and breach of fiduciary duty. The causes of action relate to various unspecified securities.

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

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

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

1. Damages due to Respondents' improper, negligent and illegal acts in not handling Claimant's account in accordance with his stated objectives and for failing to follow his instructions resulting in losses in excess of \$650,000.00;
2. Damages in an amount equal to what he would have earned had his account been invested in a prudent manner and in accordance with his instructions;
3. Damages in an amount equal to the legal fees he was forced to pay including attorneys' fees and other costs associated with bringing this arbitration matter;
4. Punitive damages sufficient to prevent Respondents from acting in this manner with other individuals and to impose a fine in accordance with FINRA rules and regulations;
5. Statutory interest at the current rate on any award that the Panel may grant from the date of Claimant's opening of his account with Aegis Capital; and
6. Any and all other relief as the Panel may see just and fit.

In the Statement of Answer, Aegis Capital requested:

1. Dismissal of the Statement of Claim with prejudice; and
2. Such other and further relief as the Panel deems just, equitable, and proper.

In the Statement of Answer, Agnihotri requested:

1. Dismissal of all claims with prejudice; and
2. Expungement of this matter from his Central Registration Depository ("CRD") records.

OTHER ISSUES CONSIDERED AND DECIDED

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

On February 23, 2021, Aegis Capital filed a Motion for Sanctions. No responses were received. By Order dated April 9, 2021 ("Sanctions Order"), the Panel granted the Motion for Sanctions and issued the following ruling:

Counsel for Respondent Aegis Capital shall file within 10 days of this Order a sworn statement of its Motion related costs for consideration by the Panel in a subsequent award of costs and/or monetary penalties.

Counsel for Claimant is directed to fully respond to all discovery requests on or before April 23, 2021, failing which the Panel will entertain a motion by Respondents to dismiss all claims with prejudice.

On April 19, 2021, Aegis Capital filed a sworn statement regarding its request for attorneys' fees in response to the Panel's Sanctions Order. On April 21, 2021, the Panel issued an Order, granting Aegis Capital's request for attorneys' fees.

On May 18, 2021, Aegis Capital filed a Motion to Dismiss pursuant to Rule 12212(c) and 12511 (b) of the Code of Arbitration Procedure ("Code") for Claimant's failure to comply with his discovery obligations and the Panel's Sanctions Order. On May 27, 2021, Claimant filed a response opposing the Motion to Dismiss. On June 2, 2021, Aegis Capital filed its reply. On June 8, 2021, the Panel issued an Order asking the parties if they wished to waive a hearing on the Motion to Dismiss. That same day, Aegis Capital filed a submission stating its position to waive the hearing. On June 9, 2021, Claimant and Agnihotri submitted their respective letters, agreeing to waive the Motion to Dismiss hearing. On June 18, 2021, the Panel granted the Motion to Dismiss on the grounds that Claimant violated the Panel's Sanctions Order. The Panel noted "the Motion is granted and the Statement of Claim as to all Respondents is dismissed with prejudice. The decision of the Panel was unanimous."

On July 27, 2021, Agnihotri filed a Motion for Expungement, to which no response was filed.

The Panel conducted a recorded, telephonic hearing on January 17, 2022, so the parties could present oral argument and evidence on Agnihotri's request for expungement.

Claimant and Aegis Capital did not participate in the expungement hearing.

The Panel reviewed Agnihotri'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.

In recommending expungement, the Panel relied upon the following documentary or other evidence: Claimant's Statement of Claim; Agnihotri's BrokerCheck® Report; Agnihotri's Motion for Expungement; and Agnihotri's testimony.

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. Claimant's claims are dismissed with prejudice pursuant to Rule 12212(c) and 12511(b) of the Code.
2. Claimant is liable for and shall pay to Aegis Capital the sum of \$5,124.00 in attorneys' fees pursuant to the Sanctions Order.
3. The Panel recommends the expungement of all references to the above-captioned arbitration (Occurrence Number 2049980) from registration records maintained by the CRD

for Respondent Pratul Victor Agnihotri (CRD Number 4031797) with the understanding that, pursuant to Notice to Members 04-16, Respondent Pratul Victor Agnihotri 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 claim, allegation, or information is false.

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

The Panel unanimously recommends the expungement of all references to FINRA arbitration number 19-02787 from the registration records maintained by the CRD for Agnihotri.

Agnihotri's testimony and exhibits presented at the hearing demonstrate that, contrary to the allegations in the Statement of Claim, Claimant was a wealthy, experienced investor who understood and consented to all trading which occurred in his Aegis account. Based upon Claimant's wealth and experience, the trading which occurred in his Aegis Capital account was not unsuitable for him. Furthermore, Agnihotri's testimony establishes that, contrary to the allegations in the Statement of Claim, no unauthorized trading occurred, and that Agnihotri did not sell a security away from Aegis Capital. Therefore, Claimant's claim is false.

4. Any and all claims for relief not specifically addressed herein, including any requests for punitive 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 = \$ 1,725.00

**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, Aegis Capital is assessed the following:

Member Surcharge = \$ 2,475.00

Member Process Fee = \$ 5,075.00

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

Aegis Capital submitted one (1) discovery-related motion

Total Discovery-Related Motion Fees = \$ 200.00

The Panel has assessed the total discovery-related motion fees to Claimant.

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:

Two (2) pre-hearing sessions with the Panel @ \$1,300.00/session = \$ 2,600.00
Pre-Hearing Conferences: January 22, 2020 1 session
April 8, 2021 1 session

One (1) hearing session on expungement request @ \$1,300.00/session = \$ 1,300.00
Hearing: January 17, 2022 1 session

Total Hearing Session Fees = \$ 3,900.00

The Panel has assessed \$1,950.00 of the hearing session fees to Claimant.

The Panel has assessed \$650.00 of the hearing session fees jointly and severally to Respondents.

The Panel has assessed \$1,300.00 of the hearing sessions to Agnihotri.

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

ARBITRATION PANEL

Richard William Wise	-	Public Arbitrator, Presiding Chairperson
Stuart K. Furman	-	Public Arbitrator
Darrell A. Hillis	-	Non-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

Richard William Wise

Richard William Wise
Public Arbitrator, Presiding Chairperson

02/04/2022

Signature Date

Stuart K. Furman

Stuart K. Furman
Public Arbitrator

02/03/2022

Signature Date

Darrell A. Hillis

Darrell A. Hillis
Non-Public Arbitrator

02/04/2022

Signature Date

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February 04, 2022

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