

Award
FINRA Dispute Resolution Services

In the Matter of the Arbitration Between:

Claimant
Thomas Mayberry

Case Number: 19-02808

vs.

Respondents
Reid & Rudiger LLC,
Elvis Sylvester Parkes, and
Clifford Ronald Reid

Hearing Site: Minneapolis, Minnesota

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 Thomas Mayberry (“Claimant”): Mitchell Markowitz, Stock Market Recovery Consultants, Inc., Brooklyn, New York.*

For Respondents Reid & Rudiger LLC (“Reid & Rudiger”), Elvis Sylvester Parkes (“Parkes”), and Clifford Ronald Reid (“Reid”) (collectively, “Respondents”): Joel S. Forman, Esq., Akerman LLP, New York, New York.

*FINRA recorded the appearance of Claimant’s representative at the time of filing of the Statement of Claim. The 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 representative appeared at the expungement hearing.

CASE INFORMATION

Statement of Claim filed on or about: September 18, 2019.
Answer to Counterclaim filed on or about: November 15, 2019.
Claimant signed the Submission Agreement: September 17, 2019.

Statement of Answer and Counterclaim filed on or about: November 7, 2019.
Response to Answer to Counterclaim filed on or about: December 2, 2019.
Respondents signed the Submission Agreement: November 12, 2019.

CASE SUMMARY

In the Statement of Claim, Claimant asserted the following causes of action: fraud; negligent misrepresentation; breach of fiduciary duty and breach of the covenants of good faith and fair dealing; negligent supervision, breach of conduct, and violations of Section 20 of the Securities Exchange Act of 1934; and respondeat superior. The causes of action related to Claimant's allegation that Respondents made a series of unsuitable buy and sell investment recommendations to generate commissions.

Unless specifically admitted in the Statement of Answer and Counterclaim, Respondents denied the allegations made in the Statement of Claim and asserted various affirmative defenses. Respondents alleged that Claimant's claim was filed in bad faith and was an abuse of process.

Unless specifically admitted in the Answer to Counterclaim, Claimant denied the allegations made in the Statement of Claim and asserted various affirmative defenses and a claim for elder abuse.

In the Response to Answer to Counterclaim, Respondents denied the allegations made in the Answer to Counterclaim and incorporated all defenses set forth in the Statement of Answer and Counterclaim.

RELIEF REQUESTED

In the Statement of Claim, Claimant requested:

- a. Compensation for trading losses in the amount of approximately \$86,000.00, or as the Arbitrator deems appropriate;
- b. Disgorgement of commissions and mark-ups;
- c. Interest at the statutory rate;
- d. Reimbursement for the reasonable costs associated with the filing of this claim, including costs of representation, travel costs, and expert witness costs; and
- e. Punitive damages.

In the Statement of Answer and Counterclaim, Respondents requested sanctions for damages; that Claimant's claims be denied; that Claimant be required to bear all costs of this proceeding; and an award against Claimant and non-parties for general and compensatory damages in an amount estimated to be no less than \$10,000.00, costs, including all FINRA fees incurred, attorneys' fees, and interest at the legal rate on all sums recovered.

In the Answer to Counterclaim, Claimant requested additional damages in an amount estimated to be no less than \$100,000.00 and an additional \$300.00 in costs for Claimant's representative's time.

In the Response to Answer to Counterclaim, Respondents' requested that Claimant's elder abuse claim be dismissed with prejudice and reasserted the requests for relief asserted in the Statement of Answer and Counterclaim.

Parkes and Reid filed a request for expungement of all references to this matter from Central Registration Depository ("CRD") registration records. Please see the Other Issues Considered and Decided section of this Award for more information.

OTHER ISSUES CONSIDERED AND DECIDED

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

On November 15, 2019, Claimant filed a Motion to Strike Respondents' Statement of Answer ("Motion to Strike"). On November 25, 2019, Respondents' filed an Opposition to the Motion to Strike. In an Order dated January 14, 2020, the Arbitrator denied the Motion to Strike.

On March 2, 2021, Respondents filed a Stipulation Dismissing All Claims with Prejudice ("Dismissal"), which provided notice that Parkes and Reid would submit a request for expungement. Therefore, the Arbitrator made no determination with respect to any of the relief requests contained in the pleadings.

On March 17, 2021, Parkes and Reid filed a Motion for Expungement, to which no response was filed.

The Arbitrator conducted a recorded, telephonic hearing on May 12, 2021, so the parties could present oral argument and evidence on Parkes and Reid's request for expungement.

Neither Claimant nor Claimant's representative participated in the expungement hearing. The Arbitrator found that the Customer had notice of the expungement request and hearing.

The Arbitrator reviewed Parkes' and Reid's BrokerCheck® Reports. The Arbitrator noted that a prior arbitration panel or court has not previously ruled on expungement of the same occurrences from Parkes' and Reid's CRD records.

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 Parkes and Reid each contributed half of the settlement amount.

In recommending expungement, the Arbitrator relied upon the following documentary or other evidence: Parkes' and Reid's testimony, Motion for Expungement, and Parkes and Reid's Exhibits A through E.

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:

The Arbitrator recommends the expungement of all references to the above-captioned arbitration (Occurrence Number 2050337) from registration records maintained by the CRD for Elvis Sylvester Parkes (CRD Number 2358223) with the understanding that, pursuant to Notice to Members 04-16, Elvis Sylvester Parkes must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive.

The Arbitrator also recommends the expungement of all references to the above-captioned arbitration (Occurrence Number 2050087) from registration records maintained by the CRD for Clifford Ronald Reid (CRD Number 1905920) with the understanding that, pursuant to Notice to Members 04-16, Clifford Ronald Reid 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 of Arbitration Procedure (“Code”), the Arbitrator has made the following Rule 2080 affirmative findings of fact:

The claim, allegation, or information is factually impossible or clearly erroneous; and

The registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation, or conversion of funds; and

The claim, allegation, or information is false.

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

Reid did not have any communication with Claimant regarding the underlying transactions or place any of the orders for the underlying transactions. He had nothing to do with the underlying transactions.

Parkes recommended the underlying transactions, but the transactions were approved by Claimant. Claimant was provided with all required disclosures and information, including account statements and transaction confirmations.

Further, Claimant did not identify with particularity any misrepresentation made by anyone or any omission of a material fact, neither Reid & Rudiger nor any of its personnel owed Claimant a fiduciary duty, and Reid & Rudiger’s internal procedures were not violated.

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
Counterclaim Filing Fee	= \$ 1,050.00

**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, Reid & Rudiger is assessed the following:

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

Postponement Fees

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

August 17-20, 2020, joint postponement request	Waived
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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:

One (1) pre-hearing session @ \$450.00/session	= \$	450.00
Pre-Hearing Conference: January 13, 2020	1 session	
One (1) hearing session on expungement request @ \$450.00/session	= \$	450.00
Hearing: May 12, 2021	1 session	
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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 Respondents.

The Arbitrator has assessed \$450.00 of the hearing session fees jointly and severally to Parkes and Reid.

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

ARBITRATOR

Frederick Ramos

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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

Frederick Ramos

Frederick Ramos
Sole Public Arbitrator

05/26/2021

Signature Date

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May 26, 2021

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